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**LITIGATION STRATEGY AND PUBLIC SECTOR REFORM
THE CASE OF NEW JERSEY'S
DIVISION OF FAMILY AND YOUTH SERVICES**

by

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ABSTRACT OF THE DISSERTATION

Litigation Strategy and Public Sector Reform
The Case of New Jersey's Division of Family and Youth Services

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A dramatic event for any state child welfare agency is when a child dies while in its care. As a tool for reform, the use of a litigation strategy has become increasingly popular. Using a litigation strategy to affect accountability can create a difficult situation for those in public administration who must deal with being accountable to the court as well as to legislative oversight. The purpose of this study was to evaluate whether litigation is an effective tool for reforming and enhancing the accountability of public sector agencies. The research focused on the response by New Jersey's child welfare services to the settlement agreement reached in the class action lawsuit of Charlie and Nadine H. v. McGreevey (2003) and implemented under the guidance of a five member expert panel. A case study method using quantitative and qualitative measures was employed to assess whether the litigation improved the organizational efficiency, performance and outcomes of child welfare in New Jersey and improved the state's accountability for services to children and families.

Over the last few decades, advocacy organizations have increasingly relied on litigation as a means to reform public agencies, including child welfare. Over the last 30 years, for instance, litigation seeking court intervention has challenged all or part of the child welfare system in almost two-thirds of the states. Typically instigated by a publicized tragedy, such as the death of a child in care, or practices thought to abrogate constitutional rights or the agency's statutory mission, litigation on behalf of the class of those affected targets a specific facet of agency performance or systemic issues. Court remedies typically include deadlines for reform, procedural and documentation guidelines, quantifiable changes in supervision, staffing, training, performance, and case practice, and measureable outcomes. Despite its growing popularity as a means of eliciting reform, however, there is a dearth of research on whether such a strategy is effective in its objectives, let alone more effective than legislative or administrative oversight. The issue bears on a number of core normative concerns in public administration, such as how to best ensure the efficiency, effectiveness, responsiveness and accountability of public agencies.

In 1999, Children's Rights, a child advocacy group, brought a class action lawsuit against New Jersey DFYS on behalf of two children, Charlie and Nadine H., calling for major changes in its structure, performance and accountability. Proponents argue that litigation is a last resort after legislative/administrative oversight has failed. Critics insist that court mandates stall existing reform efforts, stifle initiative and freeze administrative decision-

making. Administrators may meet a “checklist” of benchmarks, but fail to address underlying factors, for instance.

This case study used data from interviews with key actors and stakeholders, progress reports and other documents that reflected the panel’s efforts and the agency’s response/compliance with the original (2003) and modified settlement agreements (2006). The case study responded to two research questions. (1) Did the litigation strategy enhance the capacity for DFYS to meet the organizational and performance goals set by the oversight panel? Answering this question involved assessing changes in the internal structure and performance of the agency in relationship to the panel’s mandates. (2). Did the litigation strategy lead to greater accountability of DFYS to its statutory mission of protecting children and serving families? Answering this question involved assessing whether the court's decision led the New Jersey state government to provide the funding and support the organizational changes needed to meet the performance goals set by the oversight panel.

Findings suggest that under the guidance of the panel, the child welfare agency and the state underwent major changes that would not have occurred without the litigation.

Although the original settlement agreement proved too rigid as a guide to change, the revised agreement set realistic goals and allowed the flexibility needed to meet these goals. Critical changes occurred in administrative structure, training, staffing, supervision, case loads and other aspects of organization and practice. Meanwhile, the

state elevated the administration status of the agency and provided the needed funding, demonstrable improvements in accountability. The generally positive outcomes of the New Jersey experience suggests that public advocacy via a litigation strategy can be a powerful tool in eliciting administrative reform and enhancing accountability.

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CHAPTER ONE - INTRODUCTION

In the United States, the protection of children against abuse and neglect is primarily the responsibility of state child welfare agencies. The wide range in organization sizes, purposes, functions, sources of income, levels of hierarchy, structural formality, managerial sophistication, degree of commercialization, and extent of reliance on volunteers makes it difficult to speak in generalities about the distinctiveness of child welfare agencies. Their budget, staff and guidelines under which they function can vary depending on leadership and fund availability.

Child abuse refers to the act of physically, psychologically or sexually harming a child under the age of 18. Neglect refers to inadequately meeting a child's needs. This includes a failure to provide needed, age-appropriate care although financially able to do so or offered the financial means to do so. (DHHS, 2005 as cited in NDAS, *Issue Brief*, Jan. 2006, p. 1)

The formation and functioning of CPS agencies have been outlined in both federal and state legislation. This legislation has established policies, standards of practice, and funding that control the operation and provision of services. In addition to high turnover of workers and administrators in these agencies, due in part to high rates of burnout, many CPS agencies must provide services with inadequate public and private funding, poorly trained staff and low morale (NDAS, *Issue Brief*, March 2007). This has led to instances where children have continued to be victims of abuse or died while in agency care.

Before coming under the care of a state or county child welfare agency, an investigation is conducted to substantiate reports of suspected abuse. In 2008, 772,000 children were identified as abused nationwide: (a) 16.1% physical abuse, (b) 71.1%

neglect, (c) 9.1% sexual abuse, and (d) 7.3% psychological maltreatment (*Child Maltreatment*, 2008, p. xiii). Unfortunately, 1,740 child fatalities were attributed to abuse or neglect in 2008 (*Child Maltreatment*, p. xii).

Child welfare agency workers have several options to provide protection for an abused child. The most common interventions include the child remaining in the home with the family receiving support and intervention services (22.8%). The next most common intervention is removal of the child from the home and placed in foster care or another out-of-home placement (15.1%). The placement of the child is based on a number of factors and unfortunately, 60% of children identified as mistreated are repeat victims of abuse (NDAS, *Issue Brief*, Jan. 2006).

Each year, one hears reported in the news the case of a child neglected, abuse, or killed while in the care of a state welfare systems (e.g. see CWLA, *Child Maltreatment in Foster Care*, Oct. 2002). In 2008, 748,000 children across the nation were in foster care (U.S. DHHS, *Trends in Foster Care and Adoption: FY2002-FY2009*, 2010). Of those children, there were approximately .40% (2,992) reported and substantiated cases of maltreatment while in foster care (U.S. DHHS, *Adoption and Foster Care Statistics*, 2010). In New Jersey during 2008, there were 8,510 children in foster care and 8 cases of reported and substantiated abuse while in foster care (U.S. DHHS, *Adoption and Foster Care Statistics*, 2010). In 2008, Nationwide, 226 (13%) of children who died from abuse or neglect had some form of child protective services involvement within the previous five years. In New Jersey there were 29 cases of child fatalities in 2008 and 7 deaths had some form of child protective services involvement within the previous five years (U.S. DHHS, *Adoption and Foster Care Statistics*, 2010).

When there are indications that the system is failing in its mission and goals, in some cases, child welfare advocates have used a litigation strategy to make public bureaucracies more responsive to the concerns of those outside the system and to make state agencies accountable, especially in terms of decision-making processes and funding systems (Schorr, 2000; Waldfogel, 1998). In one review, Daphne Eviatar (n.d.) identified,

At least 32 class action lawsuits that have been filed against CPS agencies around the country, alleging violations of the Constitution, civil rights laws, and child protection statutes. Called “impact litigation” because they aspire to radical, system-wide change, the suits draw attention to a dire problem that lacks a constituency battling to fix it. (para. 3)

The New Jersey Child Welfare system has been beset with problems that culminated with class action litigation brought before the agency over the mishandling of the care of two young children, Charlie and Nadine H. and the two settlement agreements produced in 2003 and 2006. The plaintiffs alleged that the New Jersey Child Welfare system did not adequately protect the children in their foster care program. During the litigation the Children’s Rights group that brought the litigation claimed that the abuse and neglect rate of foster children in the New Jersey system was twelve times higher than the national norm (Bilchik & Davidson, 2005).

In New Jersey, child welfare services are state-administered and state-supervised by the Division of Youth & Family Services (DYFS) under the auspices of the Department of Children and Families. An important role of the DYFS is to investigate child abuse and neglect allegations and remove the child from the dangerous environment in cases where the allegations have been substantiated. The DYFS provides services for

over 51,000 children from 26,000 families in a state with a population of nearly nine million people.

Statement of the Problem: Role of Class Action Lawsuits

There are few more dramatic events in the life of a public agency than when a child dies while in the custody of a state child welfare system. Publicity about the tragedy is inevitably accompanied by an outcry for “reform” and pressure to ‘change the system’ from child advocacy groups, the media, politicians, and concerned citizens. Child welfare agencies are not the only targets of public reform efforts. In recent years, advocacy groups hoping to win greater accountability have targeted agencies responsible for any number of vulnerable populations in state care, including juveniles and adults in detention, the homeless, welfare recipients, the handicapped, Medicaid recipients and the mentally ill. Moreover, these outcries are precipitated by a range of events other than the fatality of a child or other individual in the care of the welfare agency.

In response to this failure, a 1999 class-action lawsuit was brought against the DYFS by the Children’s Rights child advocacy group that required a fundamental change in public accountability and the structure and function of the New Jersey DYFS. This lawsuit involved the plight of two children, Charlie and Nadine H. In 1994, five year old Charlie and three year old Nadine H., victims of child abuse and living in a dangerous environment, were removed from their New Jersey home by DYFS after their mother tried to drown Nadine. They were in foster care for over five years, awaiting adoption. However, the foster home where the children were placed was unsanitary and the children were regularly physically abused by the foster mother. Even though the police

contacted DYFS about the unsafe conditions in which the children were living, DYFS continued actions to have the children adopted by the foster mother. After the foster mother threatened to kill the children, DYFS moved them into emergency foster home and halted the adoption process (*Class-Action Lawsuit on Behalf of Children*, 1999, para. 8).

As a tool for reform, the use of a litigation strategy has become increasingly popular. In a typical scenario, advocacy groups start with a single plaintiff who has suffered an egregious harm or a small group and go to court for relief for a class of persons whom they allege face circumstances that place them at a similar risk. For example, in 1995 the New York Civil Liberties Union brought a suit against the New York child welfare system on behalf of the lead plaintiff, Marisol A., a severely abused and neglected child, along with 10,000 other children in New York. In this suit, the city was charged with failing to protect abused children and placing children removed from their homes into foster care or institutional care situations that were more dangerous than the homes from which they had been removed (Eviatar, n.d., para. 2). Four years later, in 1999, the same lawyer, Marcia Lowry, in conjunction with the Children's Rights advocacy group brought a similar suit against the New Jersey child welfare agency for failure to protect the constitutional rights of children under its charge.

If these suits are successful—as they often are—one result is that either the public agency or the facet of its operation that is targeted in the suit—is ordered to implement changes in accord with the plaintiff's demands. This may happen if the case proceeds to judgment or as a part of a settlement by which the agency hopes to avoid a lengthy and costly trial and even more negative publicity. The orders for compliance may be quite

specific or involve general reforms that can extend from ending a particular practice deemed harmful (such as housing juveniles at a particular facility) to reorganizing the way the agency does business. In this latter instance, the agency (or the state/municipality targeted) may be forced to hire new staff, upgrade staff, reorganize management and accountability structures, renegotiate contracts with local providers, redefine employee roles, and so on. Typically, some form of monitoring and reporting is put in place to ensure compliance within a particular time-frame. Monitoring practices also run the gamut, from requiring the agency simply to file progress reports with the court to the appointment of long-standing “panels” to oversee reform.

Both as a way to force a system to reform and to hold decision-makers accountable, litigation and court-implemented reform through monitoring is a controversial strategy. Proponents insist that lawsuits of this kind are brought only after many other attempts at reform have failed, but critics argue that court monitoring hampers the ability of the system to function smoothly. It may throw off the agency’s internal planning mechanisms, for example, by putting in place a new set of priorities; redirect scarce state dollars away from other needy reforms; or actually inhibit change by causing employees to withhold criticism lest they be singled out. According to Michael Cordoza, New York City’s corporate counsel, “The constant court monitoring, court orders, in effect caused a quasi-paralysis. . . . Everyone was worried about the note they would be writing because they knew they would be cross-examined about in a deposition” (Kaufman & Chen, 2008, para. 26). Critics such as Sandler and Schoenbrod (2004) argue that class-action lawsuits are futile because rather than facilitating change they end up creating a unwieldy bureaucracy that prevents any real reform from taking

place. They also point out that using a litigation strategy shifts control over reform from elected officials to unelected lawyers and judges, sometimes leading to failure to bring about the reform sought.

Using a litigation strategy to affect accountability can create a difficult situation for those in public administration who must deal with being accountable to the court as well as to legislative oversight. Public administrators must determine to whom they are accountable because different groups may require different forms and level of accountability (e.g., different reporting time tables such as in found with the N.J. monitoring reports, NCANDS, CFSR's etc.). To what extent is the litigation strategy plagued by conflicting, even contradictory demands from the various players, different time tables, management principles, and organizational cultures? With limited funding and resources, confusion about what aspects of the child welfare program to be measured and to whom the report is to be given become of paramount importance.

The leadership in the agencies targeted has been among the most vocal critics of the litigation strategy. For example, Commissioner of the New York Administration for Children's Services (ACS), Nicholas Scoppetta, claimed that improvements made in his agency as a result of Marisol were realized in spite of and not because of litigation. Reiterating Cardoza's concern, he too argued that the use of a litigation strategy creates an environment of fear that paralyzes workers who fear that what they said or did might be used against them at a later date. They become reluctant to "detail problems in memos or ask for expert reports because such documents could have been used against the agency at trial" (Eviatar, n.d., para. 19). Yet, the Commissioner also admitted that New York City Mayor Rudolph Giuliani refused to settle class action lawsuits, and it was only

through court order that requirements for improvement were conceded. In 1998, the power derived through the use of a litigation strategy was evident when Giuliani agreed to give an independent expert advisory panel full access to the Administration of Children's Services operations and records rather than go to trial. The litigation strategy provided the plaintiff the power to hold the agency in contempt if the changes were not implemented and measured improvements documented (Eviatar, n.d., para. 21).

Overall, evaluations of the use of a litigation strategy as a means to elicit reform have shown mixed results. By 2000, ACS was able to demonstrate an 18% decrease in the number of children in foster care and a 24% decrease in the number of new children entering the system. In addition, families and children at risk were increasingly able to gain access to preventive services and placements for children in their own neighborhoods (Eviatar, n.d., para. 36). On the other hand, no improvements were found in terms of reunification of children with their families or improved casework by foster care agencies (Eviatar, n.d., para. 36). There is, of course, no way to know how much of this change might have occurred without the lawsuit.

The history of how litigation has been used as a strategy for reform is instructive in appreciating the complexities involved in the strategy. A lawsuit against the Department of Homeless Services, *McCain v. Koch*, was filed in 1983 and charged that the city failed to provide shelter to needy families. Two decades later, in 2003, Mayor Bloomberg was able to persuade the Legal Aid Society to suspend litigation for two years while a panel of experts helped to reform the system. However, by 2008, the Legal Aid Society, concerned that needy families were being denied access to shelter, decided to file a lawsuit against the city forcing the mayor to take action.

In September 2008, Mayor Bloomberg entered into an agreement with the Legal Aid Society, in part because he believed the court ordered oversight hampered the ability to provide services to the needy (Kaufman & Chen, 2008, para. 6). The agreement outlined clear guidelines to provide shelter for the city's 14,000 homeless and is binding until 2010 (Kaufman & Chen, 2008, para. 3). The Legal Aid Society was able to get the city to guarantee families the right to shelter and to "agree to codify standards for determining eligibility, helping the homeless get the documents they need to prove eligibility and ensuring that they had a safe and appropriate place to go if they were denied shelter" (para. 23). In exchange for the city entering into the settlement, the Legal Aid Society agreed to drop more than 40 court orders that dictated how the city's Department of Homeless Services determined who could receive services and how those services were provided (para. 4). However, the Legal Aid Society also retained the right to file a new lawsuit if it believed the city failed to follow through or maintain the agreed upon standards of service. Those who support the use of a litigation strategy would cite this case as an instance where the use of a litigation strategy pushed the city to take definitive action to improve the services it provided.

Most litigators and agency representatives appear to agree that what is important in any reform effort is to build flexibility into the requirements, whether or not court ordered, so that policy makers have the ability to devise plans that are tailored to the specific needs of the system. This approach proved successful in the Alabama child welfare system. The plaintiffs started by engaging in a conversation about the problems in the system and concluded that the best course to effect reform would be through the courts. The settlement agreement did not stipulate specific requirements to be met but

rather detailed a “set of principles designed to improve each caseworker’s judgment about when a family can keep a child safe and what help it might need. . . . what got measured was practice and outcomes. . . . not filling out forms” (Eviatar, n.d., para. 28).

New Jersey Child Welfare System

In New Jersey, child welfare services are state-administered and state-supervised by the Division of Youth & Family Services (DYFS), within the Department of Children and Families with all policy, budget, and personnel decisions made at the state level. The mission of the DYFS is to “ensure the safety, permanency and well-being of children and to support families” (New Jersey DCF website, *About the Division of Youth and Family Services*). The DYFS is responsible for investigating allegations of child abuse and neglect. In situations with substantiated child abuse, the agency is responsible for placing the child in a protective environment. The DYFS is also responsible for arranging for or directly providing the family with services and treatment necessary to ensure the safety of the child in the future, either by reunification with the family, permanent placement in other home environments, or through adoption (New Jersey DCF website, *About the Division of Youth and Family Services*).

Within the New Jersey DYFS, there are 47 local and 21 regional offices with 5 adoption resource and 3 residential centers (U.S. Census Bureau, 2006 American Community Survey, New Jersey ACS Demographic and Housing Estimates, 2006, *Recent Changes in New Jersey*, p. 14). The New Jersey DYFS receives information about suspected child abuse and neglect through their 24/7 Child Abuse Hotline, referrals from other agencies, and reports from field investigators forwarded to the appropriate DYFS

office. Children in protective custody of the DYFS receive care and services contracted through community-based agencies that include “counseling, parenting skills classes, substance abuse treatment, in-home services, foster care and residential placement” (New Jersey DCF website, *About the Division of Youth and Family Services*). The DYFS is responsible for working in conjunction with the courts to place children at risk of further victimization in foster care. In addition, the DYFS operates three residential treatment centers for placement of children with severe behavioral health needs (New Jersey DCF website, *About the Division of Youth and Family Services*).

As of March, 2008, 51,219 children among 25,938 families were under supervision by the New Jersey Division of Youth and Family Services with 9,556 children in out of home placements that includes non-kin placement (45%), living with a relative (38%), placement in a group or residential home (14%), and living independently (2%). The remaining 41,663 children are living at home receiving DYFS services (U.S. Census Bureau, 2006 American Community Survey, New Jersey ACS Demographic and Housing Estimates, 2006).

The DYFS serves a population of nearly nine million people. New Jersey is the third smallest state in the union with an estimated population of 8,834,060. Over two-thirds (71.1%) of the population is white, 13.6% African American, 14.2% Hispanic, 6.5% Asian, and .3% Native American (U.S. Census Bureau, 2006 American Community Survey, New Jersey, Population and Labor Characteristics). The per capita income is \$30,434 with 28.5% of households earning less than \$35,000 and 14.9% living below the poverty line of \$20,000. Approximately 559,872 children are 5 years old or younger, 565,814 are 5 to 9 years, 592,696 are 10 to 14 years, and 597,616 are 15 to 19 years of

age (U.S. Census Bureau, 2006 American Community Survey, New Jersey ACS Demographic and Housing Estimates, 2006).

A detailed description of the case is provided below. The ruling from the class action suit, *Charlie and Nadine H. v. McGreevey*, required the state of New Jersey to implement system-wide changes to New Jersey's DYFS (Office of Children's Services Home Page: Child Welfare Reform Plan). In addition to restructuring the agency, under the direction of a 5 member oversight panel, system-wide changes in policy and practices were created and implemented to improve performance outcomes. The plan was approved by a federal court judge on June 11, 2004 and was expected to take three to five years to be fully implemented.

The elapsed time since the plan was implemented has allowed oversight panel member to reflect on the process and to provide a relatively unbiased evaluation of the extent that the litigation strategy improved the efficacy of the New Jersey child welfare agency to meet its statutory mandate to protect and support New Jersey children at risk for child abuse or neglect. Panel members and other key stakeholders were asked to discuss what changes have resulted, how positive these changes were, and the extent that the litigation and oversight process resulted in the realization of outlined performance goals. Finally, the effect of the oversight process on the management of public services will be evaluated.

Research Questions

With ongoing problems related to ensuring the safety of children in the custody of the New Jersey DYFS, the focus of this study was to provide an unbiased evaluation of

improvements in child welfare services provided to children and families, changes in administrative structures and personnel, and the extent that a litigation strategy enhanced the overall accountability of DYFS to its statutory mission. Interviews from oversight panel members and members of outside agencies will be analyzed. Key documents bearing on the oversight panel and DFYS performance since litigation was initiated will be analyzed to determine what changes have occurred since the implementation of the 2006 MSA and panel oversight. Finally, semi-structured interviews will be conducted with key players in the litigation and oversight process. This process will be used to answer the following research questions:

1 1) Did the litigation strategy enhance the capacity for DFYS to meet the organizational and performance goals set by the oversight panel? Answering this question involved assessing changes in the internal structure and performance of the agency in relationship to the panel's mandates.

This question will be operationalized by the following subquestions:

- 1a. To what extent did the litigation and oversight strategy result in DYFS making significant progress toward meeting the performance goals identified by the oversight panel?
- 1b. To what extent did the litigation strategy enhance the system capacities of DYFS?
2. Did the litigation strategy lead to greater accountability of DFYS to its statutory mission of protecting children and serving families? Answering this question involved assessing whether the court's decision led the New Jersey state government to provide the funding and support the organizational changes needed to meet the performance goals set by the oversight panel ?

Overview of the Dissertation

In this chapter, an introduction to the research topic, background to the problem to be addressed, and discussion of the underlying concepts behind the research was presented. Chapter II includes a review of the literature related to: (a) the topic of child welfare system accountability, (b) accountability in the New Jersey child welfare agency, (c) use of litigation as a tool for reform, (d) other child welfare cases that involved litigation of the welfare agency, (e) overview of expert panel monitoring reports, (f) the case of Charlie and Nadine H., (g) costs of funding reform, (h) measuring reform outcomes, and (i) problems that continue to plague child welfare agencies. Described in Chapter III is the research methodology used, instrumentation, population, and a summary of statistical methods used for data analysis. A case study methodology will be used to answer the proposed research questions. Data will be collected through semi-structured interviews of key stakeholders during the period of the Charlie & Nadine H. v. McGreevey litigation, the 2003 and 2006 settlement agreements, and panel oversight. Program evaluations will be conducted using information obtained through documents and reports generated during the litigation time frame that is the focus of the present study. Chapter IV will include the results of the interviews and document analysis specific to each research question. Finally, Chapter V includes a discussion of the results reported in Chapter IV and conclusions about their significance to understanding the role litigation plays in facilitating reform in a large child welfare agency.

CHAPTER TWO – OVERVIEW OF COURT ACTIONS TO REFORM CHILD WELFARE AGENCIES

The use of legal action as a means of child welfare reform is not new. For example, in 1973, the New York Civil Liberties Union (NYCLU) brought a lawsuit against the New York foster care system. On behalf of the plaintiff, the NYCLU claimed that the state's foster care system failed to protect a 13-year old girl entrusted in the care of the state. The case was filed for two primary reasons. First, the goal was to stop the practice of government agencies from making placement decisions based on religion. The second goal was to "ban placement of children in inadequate and inappropriate institutions" (NRCFCPP, n.d., p. 2). While the lawsuit took 20 years to settle, it failed to result in any substantive reform of the New York foster care system.

Yet this case was significant, as it marked the beginning of an era of state class action lawsuits that have been initiated by children's rights as well as other advocacy organization in an effort to protect children and improve welfare systems across the United States. (NRCFCPP, n.d., p. 2)

In fact, in the past 30 years, several highly publicized cases of the injury or death of children while in the custody of state child welfare agencies has resulted in pressure by child advocacy groups, politicians, and concerned citizens to seek different avenues to force change in these bureaucratic structures (Newman, 1999). Increasingly, these public and private entities have used a litigation strategy as an avenue for forcing public accountability and necessary policy and funding changes to reform the systems and the inadequate care given to children in state custody (Eviatar, n.d.).

Between 1995 and 2005, class-action lawsuits were brought against child welfare agencies in thirty-two states (Bilchik & Davidson, 2005). Thirty of these lawsuits resulted

in settlement agreements that became consent decrees once the agreement had been accepted by the court. The agreements describe in detail the actions and responsibilities of the defendants and the oversight responsibilities of the plaintiffs to ensure the provisions of the agreement have been addressed. “Once approved by the court, the consent decree acts as a contract, binding the child welfare agency and the attorneys acting on behalf of the ‘plaintiff’ class members to its terms, and it is fully enforceable by the court” (Bilchik & Davidson, 2005, p. 2). According to Bilchik and Davidson, an analysis of settlement agreements between 1995 and 2005 revealed that most dealt with issues in eight broad areas that included: (a) training, licensing, and retention of the workforce and their ability to find appropriate placement for children (76%); (b) provision of medical, dental, and mental health services, visitation, and independent living training (68.1%); (c) providing adequate intake, investigation, and reporting of child abuse and neglect cases (65.9%); (d) addressing worker caseloads, staffing, training, and supervision deficiencies (63.8%); (e) developing plans for finding permanent placement for children (53.2%); (f) developing quality assurance reviews or other means of sharing case information to those who need it (53.2%); (g) addressing adoption issues (34%); and (h) adequately addressing and reporting reforms made to the courts.

Court Actions to Reform Child Welfare Agencies in New York and New Jersey -

Between 1995 and 2005, several class actions lawsuits were brought against the child welfare agencies in New York (i.e., *Freeman v. Scoppetta* filed 1998 and settled November 5, 1999; *Marisol v. Giuliani* filed December 13, 1995 and settled March 1999; *Nicholson v. Williams* filed June 28, 2000 and settled December 14, 2004) and New

Jersey (Baby Sparrow v. Waldman filed August 1996 settled December 23, 1996; Charlie and Nadine H. v. McGreevey filed August 4, 1999 and settled June 23, 2003). Most notably the Elisa Izquierdo lawsuit (1995) and later the Marisol v. Giuliani (1995) case in New York and the Charlie and Nadine H. v. McGreevey (1999) case in New Jersey were adjudicated resulting in court ordered decrees for changes in how the agencies in these states operated and the creation of a child welfare oversight panel. A brief overview of these cases is provided.

New York and Children's Rights: Cases of Eliza Izquierdo and Marisol - Prior to the Charlie and Nadine H. v. McGreevey case settled in New Jersey in 2003, there had been similar efforts in New York to bring about reform using a litigation strategy to force state legislatures and public administrators to provide the funding and policy changes to how welfare agencies operated in the state. One of the most highly publicized cases involved the New York Civil Liberties Union who filed a lawsuit against the New York child welfare system in 1995 on behalf of Marisol A., a severely abused and neglected child, who was the lead plaintiff along with 10,000 other children in New York. At the time this was the largest child welfare reform lawsuit in the country and,

Established an unprecedented joint mechanism that, for the first time, requires New York City to use a panel of independent outside child welfare experts to evaluate, guide, assist and monitor reform within its child welfare system. . . . The suit broke new legal ground by extending the constitutional rights of all children affected by a child welfare system. (*Appeals Court Affirms Settlement of Marisol v. Giuliani*, n.d., para. 5)

Marisol A. is a child who almost became another victim of oversight and a failure of the New York state child welfare agency to protect a child in its care. Marisol was born in 1990 and spent the first three and a half years being cared for by a neighbor who

later became her foster mother and who wanted to adopt the little girl. Marisol's mother was a drug addict and dealer who had spent time in jail. In February 2004, the New York City Child Welfare Administration (CWA) returned Marisol to the custody of her mother despite evidence of violence and neglect from her mother who continued to deal drugs.

A week after she was returned to her mother, Marisol was hospitalized for vaginal bleeding. Rather than investigating whether Marisol was in an unsafe environment, the welfare agency failed to conduct a legally required child protection investigation and proceeded to dismiss allegations of abuse. In fact, Marisol's maternal aunt filed reports of abuse and neglect. However, when a child protective services worker went to Marisol's home, the mother indicated Marisol was visiting family in the Dominican Republic. Rather than following up on the mother's claims, the worker dismissed the allegations of abuse as unfounded.

In May of 1995, police found this four year old child with serious injuries and definite indicators of severe abuse and neglect. She was discovered,

Naked beneath a urine-soaked sheet. Her front teeth had been knocked out, her feet scalded, her body covered by bruises and cigar burns. One leg bone was splintered, large clumps of her hair was (sic) missing, and she had been sexually abused. (Bernstein, 1995, para. 2)

Marisol had been "locked in a closet. . . . To survive, she was eating cardboard shoeboxes, black plastic bags and her own feces" (Bernstein, 1995, para. 6). Help arrived for Marisol, not because of the actions of the child protective services worker but as a result of a housing inspector who called the police after finding Marisol. Furthermore, while Marisol had been removed from the home and her mother and her live-in boyfriend were charged with first degree assault, the Child Welfare Administration never provided

Marisol with the mental health counseling she needed and also failed to follow-up on the attempts by the neighbor to adopt the child (Bernstein, 1995, para. 8).

The failure of the New York City child welfare agency to protect Marisol A. resulted in Children's Rights (the same child advocacy organization and lawyer who filed the Charlie and Nadine H v. McGreevey lawsuit in New Jersey) filing a petition with the court to place the New York agency into receivership (Gaouette, 1996). In the Marisol v. Guiliani case, the Children's Rights/New York City Corporation Counsel filed suit on behalf of over 100,000 children in the care of the New York State Office of Children and Family Services (OCFS) and New York City's Administration for Children's Services (ACS). The plaintiffs sought to reform the entire New York child welfare system, alleging that the system failed to care for children already in custody and those children at risk in the community.

The settlement resulted in the creation of an advisory panel of child welfare experts to provide oversight of reform to the OCFS and ACS as well as the creation and implementation of the statewide data management system. Overall, the outcome of the settlement agreement in the New York case resulted in increased funding to find placements for children, a better trained staff with lower caseloads, implementation of a data management system and foster care services that are organized along neighborhood lines (Bilchik & Davidson, 2005).

While Marisol was able to escape from her abusive environment, the same was not true Elisa Izquierdo. Over a decade ago, Elisa Izquierdo, a six-year old child in the care of the New York child welfare system was beaten to death by her mother in November of 1995. Her death prompted a lawsuit against New York that called for

public accountability and reform of the New York Child Welfare system (*Outrage Over Abuse*, 2006).

Elisa came to the attention of the New York Child Welfare Administration a day after her birth to a crack addicted mother with mental health problems. Custody of Elisa was given to her father who raised her until his death when she was six years old. Following his death, Elisa was return to the custody of her mother. However, neighbors, relatives, and her teachers reported signs of abuse and concerns over Elisa's safety. Prior to her death, the Child Welfare Administration had been contacted eight separate times to investigate or intervene because of concerns of abuse and neglect. For various reasons, caseworkers failed to recognize or follow-up on these reports of abuse.

Two months before her seventh birthday, Elisa was killed by her mother. The public was outraged when the circumstances of Elisa's death were reported in the media. Demands for public accountability by the Child Welfare Administration were refused by the commissioner who cited confidentiality laws. However, a letter was leaked from the Child Welfare Administration commissioner to Mayor Rudolph Giuliani "complaining that city staff cuts make it impossible for her to train child-abuse caseworkers or even measure their competence" (Van Biema, 1995, para. 23).

Advocates for the use of the courts to bring about reform have taken a different direction than was used in earlier lawsuits. Rather than suing the actual agency, many litigants bring a lawsuit against the government officials who have oversight. The litigants use the courts to draft agreements that provide elected officials with the flexibility to devise plans of actions that can result in measurable reform. "Still, the outcome of these suits often depends to a large extent on the personalities and tactics of

the plaintiff's lawyers and the defendants" (Eviatar, n.d., para. 13). This was demonstrated in the case of Elisa Izquierdo. The publicity about the abuse she suffered prior to her death led Mayor Rudolph Giuliani to make policy changes in regards to the child welfare system in New York City. "He pulled the child welfare agency out of a large bureaucracy, renamed it the Administration of Children's Services, and hired an accomplished new commissioner" (Eviatar, n.d., para. 13). The mayor and the commissioner worked to bring to the new child welfare system a budget increase of \$520 million, a new computer system to track cases, and an increase in a better trained staff. In addition, On February 12, 1996, Governor George E. Pataki signed into law legislation known as Elisa's Law, which is designed to balance the need for increased accountability, through public knowledge and government oversight, with the privacy interests of individuals involved in child protective services cases (Gaouette, 1996).

New Jersey and Children's Rights: Case of Charlie and Nadine H. - In the New Jersey case of Charlie and Nadine H. v. McGreevey, the Children's Rights child advocacy organization brought a suit on behalf of children in the custody of the New Jersey children welfare agency, Department of Youth and Family Services (DYFS). The plaintiffs in this case alleged that children in foster care were suffering abuse and neglect at a rate twelve times higher than the national norm. The Children's Rights group sought, through the use of a litigation strategy, to force the DYFS to overhaul its agency through the creation and implementation of a reform plan (Bilchik & Davidson, 2005).

In both New York and New Jersey, concerns brought out in the litigation included how these agencies assessed and addressed child abuse allegations and determined the appropriate child-family needs and access for supportive services. Inadequacies in

dealing with allegations of abuse were also issues in the lawsuit of the New Jersey child welfare agency. These agencies were required to develop policy and practices for intake and assessment of allegations of abuse (Bilchik & Davidson, 2005). As part of the settlement, New York evaluated and made changes to the policy and practice of how reported abused and neglect cases were handled that included clearer guidelines to personnel at the State Central Registry on the issue of accepting abuse and neglect reports and improving intake assessments so that true cases of maltreatment were not missed. In New Jersey, the agreement required decisions to be reported as either substantiated or unfounded (Bilchik & Davidson, 2005). In addition, there was to be a measurable decrease in the incidences of reported abuse and neglect of children placed in out-of-home care.

Another issue brought out in the lawsuits against New York and New Jersey was the ability of staff to find appropriate and least restrictive placements for foster children or children needing institutional care. In New York, the settlement mandated that “services and placement be provided in the least restrictive, most normalized environment that is appropriate to the child’s strength and needs” (Bilchik & Davidson, 2005, p. 14). A panel was created that provided oversight and made recommendations on the appropriateness of the placement within 10 days after the evaluation of the child’s needs were completed. The New Jersey DYFS was required to “create a placement plan used in every local office to facilitate the placement process” (Bilchik & Davidson, 2005, p. 14). In addition, the DYFS was to have recruited an additional 1000 foster families by June 2005 and to increase placement of children with relatives who could provide a protective and supportive environment for the child.

In response to this failure, a 1999 class-action lawsuit was brought against the DYFS by the Children's Rights child advocacy group that required a fundamental change in public accountability and the structure and function of the New Jersey DYFS. This lawsuit involved the plight of two children, Charlie and Nadine H. In 1994, five year old Charlie and three year old Nadine H., victims of child abuse and living in a dangerous environment, were removed from their New Jersey home by DYFS after their mother tried to drown Nadine. They were in foster care for over five years, awaiting adoption. However, the foster home where the children were placed was unsanitary and the children were regularly physically abused by the foster mother. Even though the police contacted DYFS about the unsafe conditions in which the children were living, DYFS continued actions to have the children adopted by the foster mother. After the foster mother threatened to kill the children, DYFS moved them into emergency foster home and halted the adoption process (*Class-Action Lawsuit on Behalf of Children*, 1999, para. 8).

On August 4, 1999, the Children's Rights group filed a federal civil rights lawsuit in the U.S. District court for the District of New Jersey: Charlie and Nadine H. v. Whitman (then Governor of New Jersey) against the New Jersey Division of Youth and Family Services. In the complaint, DYFS was charged with being poorly managed, overburdened, and underfunded: conditions that threatened the health and safety of children in the care of the state (*Settlement of Class-Action Lawsuit*, 2003). Eighteen months later on March 8, 2002, U.S. District Court Judge Garret E. Brown granted class-action certification to the lawsuit, allowing the federal civil rights lawsuit to proceed. This decision gave the plaintiffs the right to claim that the children's constitutional rights

were being violated because their lives and well-being were put in jeopardy as a result of placement in the New Jersey child welfare system (*Settlement of Class-Action Lawsuit*, 2003). “The court ruled that children in DYFS custody have a right to be protected from harm and may bring an action in federal court to vindicate that right” (Charlie and Nadine H. v. Cody, n.d., *History and Status* section, para. 1).

Four months later on July 3, 2002, U.S. District Court Judge, John J. Hughes granted outside experts appointed by the plaintiff immediate access to the case files of 500 children in the DYFS system. The purpose was to determine the extent that children were put in dangerous situations or suffered harm while in the custody of DYFS. These files included reviews by the DYFS’s Institutional Abuse Investigation Unit (IAIU) that documented instances of abuse and neglect of foster children and the failure of the DYFS to take decisive action to ensure the safety of the children in its care (Charlie and Nadine H. v. Cody, n.d., *History & Status* section, paras. 2-3).

On February 2003, three and a half years after the lawsuit was filed, mediation between Children’s Rights and DYFS was ordered by the court and intensive negotiations began among the parties. Later, on March 20, 2003, rejecting arguments by the New Jersey Attorney General and DYFS to keep all records in the case from public view, Judge Hughes accepted arguments by Children’s Rights, *The New York Times* and *The Star Ledger* that the documents should be made public. Judge Hughes ruled that some of the documents collected during the discovery phase of the lawsuit were to be made available to local and national media (*Settlement of Class-Action Lawsuit*, 2003). The formation, role, and reports by the expert panel as well as a discussion of the original

2003 settlement agreement and later the 2006 modified settlement agreement will be discussed in greater detail later in the chapter.

An outcome of the civil suit was the order from the United States District Federal District Court for New Jersey to turn over to the Children's Rights advocacy group confidential files from 1999 to 2002 containing records of abuse. Children's Rights made these files public to demonstrate the failures of the New Jersey child welfare system to protect the children in its care (Jones & Kaufman, 2003). The reports showed how the state failed to protect 17 children in its care resulting in the death of four and prolonged abuse of the others. In one case, a child was placed in the custody of a homeless father. In another, a child was beaten by a foster mother who previously had been barred by the agency from caring for foster children. In other cases, a 3-year-old HIV positive child never received needed medical care and a days-old infant was placed in foster care without the caregiver receiving information about the baby's medical condition. Both these children died while in foster care (Jones & Kaufman, 2003).

The documents do, in fact, include concessions by workers and officials at the agency about the extent of the problems plaguing the department. After a child died at the home of a family with a history of dealings with the agency—children had been found sleeping on park benches, and drug abuse by the parents was suspected—one official acknowledged that poor assessments of threats to children were commonplace. (p. 2)

When these cases of abuse were publicized in the media, the public demanded legislators explain why these events happened and why there was not adequate oversight by public administrators to ensure the safety of the children placed in the care of the state. Prompted by these cases, the Children's Rights advocacy group brought a class-action suit against DYFS (Charlie H and Nadine v. McGreevey) that resulted in DYFS operating

under a court-ordered plan since 2003 to reform the New Jersey child welfare system.

Until June of 2010, DYFS was monitored by a five member expert monitoring panel that reported the progress made toward meeting standards of reform (Kelley, 2007).

In both the New York and the New Jersey settlements, more children were to be placed in foster homes rather than congregate care settings. Also in New Jersey, the length of time children spent in foster care was to be decreased with the goal of reuniting the child with the family or finding permanent adoption. In New York, “audits of licensed congregate care facilities were to be conducted as frequently as practicable to review compliance with applicable regulations and policies” (Bilchik & Davidson, 2005, p. 20).

The provision of services that are sensitive to race and ethnicity issues was also addressed in the New York agreement. Children were to be placed in appropriate foster homes or other agencies that best served the needs of the child. In terms of religion and ethnicity, these factors could be taken into consideration in finding the best placement of a child in an appropriate setting. However, no child would be denied placement based on religious affiliation and those children placed in these facilities or homes would be free to practice their own religion (Bilchik & Davidson, 2005). In both New York and New Jersey contracted services from private agencies were to be in compliance with the provisions of the settlement agreements. In New York City, agencies that contracted with the city were required to “submit quarterly reports with identifiable information that include the race and religion of all children whose placement in the agency’s program(s) originated with the physical appearance of the child and/or parent at the agency” (Bilchik & Davidson, 2005, p. 21).

The recruitment and retention of caseworkers and other agency personnel was an issue in the New Jersey case. The settlement required an immediate evaluation of the licensing, training, and workload of caseworkers. A set of guidelines were to be developed and implemented to assure that high quality workers with the required training and skills were hired.

CHAPTER THREE – REVIEW OF THE LITERATURE

Child Welfare System Accountability

Public Administration and Accountability - In a public agency such as the New Jersey Division of Youth and Family Services (DYFS), failure to meet accountability mandates can result in federal fines, class-action lawsuits as well as loss of political, professional, and citizen support. “Accountability involves the means by which public agencies and their workers manage the diverse expectations generated within and outside of the organization” (Romzek & Dubnick, 1987, p. 228). The level of oversight and accountability of these different entities is primarily determined by federal and state legislation. The standards of accountability and mandates for reform also stem from interest and advocacy groups who have turned to class-action lawsuits that have resulting in court ordered decrees (Kearns, 1996; Behn, 2001).

The challenge for those working for publicly funded and managed agencies is how to adequately define and measure performance in a way that provides an accurate representation of the agency being evaluated. Public administrators must work within complex systems in which they are pulled in different directions trying to fulfill demands for accountability from different stakeholders who have different conceptions and expectations of accountability. According to Kearns (1996), public sector accountability usually involves a governing authority that provides oversight over an agency or other public entity’s adherence to mandated performance standards and reporting requirements. This often involves a complex network of individuals, groups and organizations, both

public and private, that are involved in the acquisition and reporting of measures of accountability (Romzek & Ingraham, 2000).

Conceptual Foundation on Accountability

Publicly administered institutions serve many functions and are expected to be accountable to both internal and external stakeholders (Fox & Miller, 1996; King & Stivers, 1998, Rohr, 1986). Within publicly administered child welfare agencies, several high profile cases involving the deaths of children in the care of the state has prompted and increased focus on public administration accountability. The public demands accountability because people believe that when public institutions are forced to be accountable, this will lead to increased effectiveness and efficiency in the provision of services provided by the institution (Power, 1997).

Accountability is a social-relational construct that involves an agent that makes the report and the agent that receives it. Within the context of public institutions, the implied meaning of accountability is that it requires the institution to justify policies, decisions, actions, and outcomes to both internal and external entities (Tetlock, 1992). Public institutions that do not provide an acceptable level of accountability often are challenged from outside organizations or agencies to reform reporting policies and practices (Stenning, 1995). The public entity is subject to either positive or negative consequences based on meeting standards of accountability and performance (Rubin, 2005). This was referred to by Melvin Dubnick (2003) as “situated pressured for account giving behavior” (p. 407).

Accountability in Public Administration – Political and governmental agents are directly accountable to the public and are included or excluded from service through direct public elections (McGraw, 1991). Those politicians who fail to meet performance expectations are blamed for the failure to improve the situation for their constituents and thus are not elected or re-elected. However, within public administration, this level of accountability is not as clear cut and therefore the placing of “blame” for failure to meet performance expectations is often problematic (Behn, 2001). This is because the ability to identify the accountable agent and elements that serve as the performance measure are both complex and often ambiguous (Behn, 2001; Rohr, 1986). Often it is assumed that what is subject to accountability is easily known and defined; however, within publicly administered institutions, there are not always specified tasks or performance measure to be reported. Even the agents to whom the public institution is accountable is unclear. For example, Fox and Miller (1996) proposed that public administrators are accountability directly to legislative and governmental agencies and indirectly to the public. However, King and Stivers (1998) and Rohr (1986) proposed that public administrators should be directly accountable to the public. These divergent models illustrate the ambiguity surrounding public administration accountability.

Four Types of Accountability – Romzek and Dubnick (1987) outlined a multiple accountability systems composed of four types of accountability: legal, political, bureaucratic, and professional. This framework was proposed as a means of understanding the role institutional factors play in terms of accountability. According to Romzek and Dubnick,

Administrators and agencies are accountable to the extent that they are required to answer for their actions. . . .accountability plays a greater role in the processes of public administration than indicated by the idea of answerability. . . . Answerability implies that accountability involves limited, direct, and mostly formalistic response to demands generated by specific institution or groups in the public agency's task environment. More broadly conceived, *public administration accountability involves the means by which public agencies and their workers manage the diverse expectations generated within and outside the organization* (original italics). (p. 228)

Romzek and Dubnick (1987) provided an understanding of accountability expectations from four different systems of public accountability. Each perspective addresses whether the expectations are defined and controlled by an internal or external agent and the extent that agent has control in defining those expectations. Internal agents of control. Internal agents derive their control from formal hierarchical and informal social relationships within the agency while external agents derive their control from authority gained through formalized stipulations in laws or legal contracts and through the “informal exercise of power by interests located outside the agency (Romzek & Dubnick, p. 228).

In addition to internal or external control, the degree of control over the decisions and actions of an agency also play a role in accountability. The agencies with a high degree of control are able to “determine both the range and depth of actions which a public agency and its members can take. A low degree of control, in contrast, provides for considerable discretion on the part of the agency operatives” (Romzek & Dubnick, 1987, p. 228).

1. Bureaucratic Accountability

Bureaucratic accountability systems have an internal source of agency control and a high degree of control over agency actions. In fact, bureaucratic systems of accountability are commonly used in public administration. The focus for public administrators is to focus on the priorities and expectations of those at the top of the agency hierarchy (e.g., in the case of the DYFS, the commissioner). Also, there is considerable control within the agency through the internal supervision of agency activities (Romzek & Dubnick, 1987). Typically found in bureaucratic accountability systems is a policy structure of clearly defined rules, regulations, and operating procedures coupled with a supervisory-worker relationship in which the worker unquestioningly follows the directives of the supervisor (Gouldner, 1954; Romzek & Dubnick).

2. Legal Accountability

Legal accountability systems have an external source of agency control and a high degree of control over agency actions. This accountability system is similar to the bureaucratic system because it involves “the frequent application of control to a wide range of public administration activities” (Romzek & Dubnick, 1987, p. 228). Legal accountability is different in that controlling agent is outside of the organizational system. This controlling agent has considerable power to wield legal sanctions or to impose contractual obligations. The outside agents often are legislative or governmental agencies who create laws and policies that the organizational systems is required to implement or enforce (Romzek & Dubnick).

The legal accountability relationship is based not on a hierarchical power structure but on a formal agreement between the legal entity and the public agency

(Mitnick, 1980, Romzek & Dubnick, 1987). For example, Congress passes laws and monitors compliance with the laws or a federal court issues a ruling and mandates and monitors the extent that these mandates are followed (e.g., the court formed and expert panel that monitored the court mandates in the Charlie and Nadine H. v. McGreevey case in New Jersey).

3. Professional Accountability

Professional accountability systems have an internal source of agency control and a low degree of control over agency actions. Public agencies such as the New Jersey child welfare agency rely heavily on a skilled professional workforce. There is a relationship of trust by public administrators that these professionals will execute their responsibilities effectively and correctly and the expectation by professionals that the agency trusts them to know how to do their jobs. Professionals are given sufficient autonomy to perform their duties until performance measure indicate these duties are not meeting performance expectations (Romzek & Dubnick, 1987). While professionals must answer to a supervisor, this relationship is different than what is found in a bureaucratic system. The supervisor often gives deference to the professional and steps in only in situations of demonstrated incompetence or malfeasance (Wyden, 1985). In the professional accountability system, control over agency activities is held by the professional staff and the agency control and authority is internal (Romzek & Dubnick).

4. Political Accountability

Political accountability systems have an external source of agency control and a low degree of control over agency actions. Political accountability is based on the notion of being responsive between the public administrator and individuals or agencies to

which he or she is accountable. The public administrator must be response to the policies and program needs of the agent. According to Romzek and Dubnick (1987), the central question is “Whom does the public administrator represent?” (p. 229). The possible agents or agencies can include governmental and legislative officials, heads of agencies (e.g., the commissioner in the New Jersey DYFS), the population served by the agency (e.g., the children and families served by DYFS), and special interest groups (e.g., Children’s Rights, CWSA).

In summary, the bureaucratic accountability system is based on the relationship between the organizational hierarchy and the supervisors who manage agency operations. The relationship is based on supervision by the superior of the subordinate. The legal accountability system is based on the public administration accountability through legal contracted agreements. The basis of the relationship is fiduciary between the lawmaker and the public agent. The professional accountability system is based on supervisors giving considerable control the professional core of the agency. The basis of the relationship is deference by the supervisor (layperson) to the expertise of the professional (expert). Finally, the political accountability system is expected to be responsive to internal and external stakeholders in meeting performance expectations. The relationship is based on responsiveness of the public agency to its constituents (Romzek & Dubnick, 1987). “Institutional pressures generated by the American political system are often the salient factor and frequently take precedence over technical and managerial considerations” (Romzek & Dubnick, p. 230).

According to Romzek and Dubnick (1987), within all these systems, the appropriateness of which system to apply to the publicly administered agency is influenced,

The nature of the agency's tasks (technical level accountability); the management strategy adopted by those heading the agency (management level accountability); and the institutional context of agency operations (institutional level accountability). Ideally, a public sector organization should establish accountability should establish accountability mechanism which "fit" at all three levels simultaneously. (p.230)

Implementation Theory

Policies created by legislative or judicial decisions are considered as public policies and can influence changes in organizational behavior including child welfare policy (Johnson & Canon, 1984). Problems and disputes that arise prior to and during the course of a court trial are addressed most often by the court's ruling. Implementation of these newly created policies are what public administrators such as child welfare workers are most involved with after the ruling.

Implementation refers to the process of translating policy into action; the interaction between setting goals and achieving them (Pressman & Wildavsky, 1979). Implementation can involve carrying out basic policies incorporated in statutes or court mandated executive orders (Mazmanian & Sabatier, 1983). Implicit or explicit in these definitions is the idea that implementation links policy to action. In relation to litigation, Edwards (1980) described implementation as,

The stage of policymaking between the establishment of a policy-such as the passage of a legislative act, the issuing of an executive order, the handling down of a judicial decision, or the promulgation of a regulatory rule and the consequences of the policy for the people whom it effects. (Edwards, 1980, p. 1)

The implementation process consists of:

Issuing and enforcing directives, disbursing funds, making loans, awarding grants, signing contracts, collecting data, disseminating information, analyzing problems, assigning and hiring personnel, creating organizational units, proposing alternatives, planning for the future and negotiating with private citizens, businesses, interest groups, legislative committees, bureaucratic units and even other countries. (Edwards, 1980, p. 2)

When discussing any theory of implementation, it is important to remember that policy-making does not take place in a vacuum. Organizational entities are dynamic and it is difficult to completely separate the specifics of a single policy and actions from the influences of other policies (Majone, 1989; Pressman & Wildavsky, 1979). According to Pressman and Wildavsky (1979), “The passage of time wreaks havoc with efforts to maintain tidy distinctions. In the midst of action the distinction between the initial conditions and the subsequent chain of causality begins to erode. . . . The longer the chain of causality, the more numerous the reciprocal relationships among the links and the more complex implementation becomes” (p. xxi). In other words, when assessing the effectiveness of policy and subsequent actions, care must be taken not to examine the policy in isolation of other policies. This will prevent attributing outcomes solely to that policy when, in fact, other factors and policies may have made a significant contribution to the outcomes observed (Hall, 2008; Sabatier, 1986).

Over time between the policy and its implementation in practice, a gap or deficit develops over time in the implementation of policies (Treuren & Lane, 2001, Dredge & Jenkins, 2007; Hall, 2008). The challenge for public administrators is closing the gap between the policy and action (Treuren & Lane, 2003). The increase or decrease of the gap is affected by the several factors that include:

1. The extent that policies are written that make them actionable.

2. Resources (expertise, money, time) available to use toward the implantation of the policy.
3. Institutional organization and culture.
4. Authority or power structure sufficient to implement the policy.
5. Whether or not implementation is dependent on changes in current regulations or legislation.
6. The coordination of multiple jurisdictions, and public or private agencies involved and how well these different agencies share an interpretation of the policy and how it is to be implemented.
7. The extent that all stakeholders to which the policy applies are included in and committed to the implementation process.
8. The accountability structures or systems are in place to make stakeholders accountable.
9. The transparency of the implementation process.
10. The extent that public administration processes are embedded in the implementation process.

The complexity of the policy and the implementation process makes a single solution difficult or impossible, thus necessitating the implementation of a range of policy related actions. Some of these actions can be voluntary while others may be forced through legal and political accountability systems (Hall, 2008). Another difficulty is how to assess performance and compliance with policy. In complex systems, multiple performance and accountability measures are needed because “Any single solution is

likely to address parts of the problem and will likely fall short of the objectives [of the policy]” (-Dredge & Jenkins, 2007, p. 171).

The implementation approaches taken, in part, will be influenced by technical/professional considerations that impact the efficiency and effectiveness of the implementation actions (e.g., the New Jersey information reporting computer systems of the training and availability of social workers) as well as that degree to which stakeholders are on board with the implementation plan (Selman, 1992).

Because people and agencies influence policy and the implementation process, the influence process does not end once the policy is drafted and implemented, but continues throughout the entire policy implementation process. The implementation plan from beginning to its conclusion reflects the policy decisions that form out of the process of connecting the interests, values, and power (which is not evenly distributed) of the different stakeholder groups (Hall & Jenkins, 1995).

Three Approaches to implementation - There are three basic implementation approaches: top-down, bottom-up, and interactive (Birkland, 2005). The interactive approach attempt to find a medium between the top-down and bottom-up approaches. These are not discrete approaches, but share qualities (Sabatier, 1986; Pulzi & Treib, 2007).

The top-down approach is based on a policy hierarchy in which policies are drafted by decision-makers at the top (e.g., legislators and governmental agencies) and implemented by those at lower rungs of the hierarchy. This implies that centrally-defined policies are created from a strategic planning process and clear divisions between the policy and implementation (Hall, 2008). Van Meter and Van Horn (1975) proposed that

“the implementation phase does not commence until goals and objectives have been established by prior policy decisions. It takes place only after legislation has been passed and funds committed” (p. 448). The intent of the top-down approach is to provide clear policies and objectives that will improve the overall implementation process (Ham & Hill, 1994).

One problem with a top-down implementation approach is that policies developed by those at the top may not reflect the reality of what is happening at the bottom (Majone & Wildavsky (1979). A bottom-up approach takes into consideration problem-solving strategies used at the ground level that involve a complex process of policy action and reaction (Pulzi & Trieb, 2007). Public administrators working from a bottom-up approach typically begin with a policy problem requiring a policy response instead of dealing with goals handed down from decision-makers at the top or the hierarchy (Sabatier, 1986). Use of this approach also entails using empirical information related to the problem solving strategies of those involved in the policy implementation (Pulzi & Trieb, 2007). In addition, policy implementation usually involves collaboration among public and private agents rather than a single organization. Unlike the focus on implementation failure typically of the top-approach, the bottom-up approach “accepts the difficulties faced by those at the bottom, applauds their attempts to overcome the, and notes the very positive contribution that they can make to the better delivery of services” (Jordan, 1995, p. 13). Policies are less determined by statutes created by legislative and governmental bodies than by independent political decision developed by those directly responsible for policy implementation (Pulzi & Trieb, 2007). However, a weakness in this approach is

that those at the bottom may not have much latitude in implementing some policies because of the way they have been structure (Sabatier, 1986).

The interactional approach of implementation places the emphasis on the complex process of developing a policy at all levels that reflects the different interests of policy makers and those who implement the policy (Barrett, 2004; Goggin, Bowman, Lester, & O'Toole, 1990). The interactional approach takes into account how policies move through the different political and stakeholder networks prior to implementation (Callahan, 2007; Carlsson, 2000). Barrett and Fudge (1981) proposed that the top-down and bottom-up approaches represent a false dichotomy because implementation operates simultaneously. While policy and regulations may limit the power of those at the bottom, those at the bottom make decisions in how they implement the policy (effectively changing the policy) that in effect limits the influence of the decision-making from those at the top.

The assumption in the interactional approach is that a process of policy negotiation occurs as a continuous rather than discrete process (Barrett & Fudge, 1981). The focus on the interplay between organizational system and structure gives attention to how power is allocated and the inherent complexity of the in implementation process (Barrett, 2004). This negotiation process takes place within formal legislative frameworks and informal cultural and behavioral norms. "Specific issues may be haggled over, but within broader limits. The limits themselves will vary both in and over time, and are themselves subject to negotiation in relation to the wider social setting" (Barrett & Fudge, 1981, p. 24). The interactional approach recognizes the interdependence between the different organizational and political systems involved in the implementation process and

the continual interaction that occurs between the different policy agents and that involves exchanges of negotiated shared purposes and resources (Rhodes, 1997).

According to Mazmanian and Sabatier (1983), there are four central issues to address in evaluating the implementation process. First, before implementing any policy, it is important to articulate the extent that the desired outcomes match the objective stated in the original policy. Second, determine how well were the objective attained and how long did it take. Third, determine what factors caused the objectives of the policy to be modified or affected the outcomes of the policy. Fourth, assess the ways that the policy was reformulated over time as the implementation process progresses. The effectiveness of any policy implementation can be increased through: (a) clear and consistent policy objectives; (b) skilled and committed implementing agents; (c) support from stakeholders (e.g., interest groups and legislators); (d) limiting the amount of socio-economic upheaval (Mazmanian & Sabatier, 1983).

Many benchmarks to assess effective implementation against what has been observed provide little to explain policy and implementation (Majone, 1989). Different implementation approaches can lead to different policy outputs and outcomes. Each approach provides a means of looking at the policy implementation process and how policy is created, formulated, and implemented and the role of stakeholders in the process. By building on an approach to fit the implementation situation by identifying practical implications of the strategy, the efficacy of the implementation process can be strengthened (O'Toole, 2004). O'Toole recommended that a synthesis approach akin to the interactional approach is ultimately the best approach in situations involving multiple public organizational systems. An interactional approach provides a way of analyzing

motivation and operation in bureaucratic system, developing and implementation process that includes evaluating policy outcomes, and taking into account the micro-political process that take place in public administered institutions (Barrett, 2004).

Why is the implementation process important to the development of child welfare policies? When assessing the implementation process, it is advisable to focus on the policies and their actual outcomes to analyze the extent these policies have delivered the intended consequences. One cannot accurately assess the success of a policy without examining the implementation process of that policy. This is supported by Pressman and Wildavsky (1973) who proposed that policies should be examined to determine if they had been well executed or poorly implemented. The best method to determine this effectiveness was to look at and evaluate the difference between the actual and intended outcomes of the policy. Ultimately, for the policy to be successful, policy formation had to be integrated with policy formation (Press & Wildavsky, 1973).

Formation of Child Welfare Policy - In 1875, the New York media reported the brutality suffered by a young child at the hands of her caregiver. While the American Society for the Prevention of Cruelty to Animals had been founded by Henry Bergh to protect animals, there were no laws that protected children from abuse. A neighbor of the abused child, not knowing where to turn for help, sought the assistance of Henry Bergh. Through his influence, Bergh worked with concerned New Yorkers and state legislators to enact laws that provided for the protection of children from abuse (CWLA, 1998).

In 1907, 26 states and the District of Columbia had laws on the books specifically for the protection of abused and neglected children. By 1909, both public and private organizations had worked tirelessly to get legislators to enact laws to protect the children

in their communities. This same year, following the first White House Conference, the U.S. Children's Bureau was created as the national accountability system responsible for all matters related to the welfare of children. Twenty-five years later, in 1935, legislators passed into law the Social Security Act. One provision of the act was to require states to establish public child welfare agencies dedicated to providing services for neglected, abused, homeless, and delinquent children (CWLA, 1998).

Supporting the need for policy related to child welfare, professionals in medicine and the social services provided legislators with scientific evidence of the long-term effects of child abuse. Dr. C. Henry Kempe wrote about the "battered child syndrome" in 1961. That brought increased attention about the need to protect vulnerable children. In response, state legislators worked to pass or update legislation related to child abuse and neglect.

The federal government passed the Child Abuse Prevention and Treatment Act of 1974 (CAPTA) that mandated state accountability through required reporting of compliance with federal statutes (CWLA, 1998). In 1996, CAPTA was amended (P.L. 104-235). The changes in the law required child welfare agencies to maintain sufficient staffing levels of properly trained personnel, outlined state requirements for the establishment of citizen review panels, provided greater flexibility in severing parental rights, and outlined stricter requirements for finding permanent placements for children (*National Conference of State Legislatures* (NCSL), 2005). Over the next 20 years, the 1978 Indian Child Welfare Act (P.L. 95-608), the 1980 Adoption Assistance and Child Welfare Act (P. L. 96-272), the Family Preservation and Support Services Program (P.L.

103-66), and the Adoption and Safe Families Act of 1997 (P. L. 105-89) were voted into law (CWLA, 1998, p. 3).

Role of Legislative Oversight in Child Welfare - Legislators in forming policy and enacting legislations must balance accountability to federal and state governments with the needs of the child.

Within this context, the child protection system is charged with safeguarding children and holding accountable those who abuse and neglect children. In carrying out these mandates, it must use methods that appropriately respect the privacy of families and protect individual rights. (CWLA, 1998, p. 4)

Through legislation, a network of resources, services, supports, and policy have been put in place to provide for the emotional and physical protection of children, assistance and treatment for families, and when needed, alternative permanent family placement for the child (CWLA, 1998).

One role of those in public administration, specifically legislators, is to conduct continuing oversight and guidance in assessing and improving child welfare program administration and function. Politicians are responsible for determining policy, procedures, and funding for child welfare agencies and the public holds legislators accountable for providing a safety net for children. In this role, politicians serve a critical role in oversight of these agencies to ensure compliance with enacted legislation. “The primary task of state legislatures is to frame the structural and policy priorities of state government through legislative and funding decisions” (NCSL, 2005, p. 3).

Unfortunately, politicians often act in response to tragic circumstances involving the inability of children to be protected while in the care of the state. “At such times, the emotional context can lead to reforms that are driven by the circumstances of a specific

case rather than by a thoughtful analysis of the system's goals and resources" (NCSL, p. 3).

As a means of providing for an objective and proactive approach to oversight, legislators have put in place a system of reviews to manage child welfare systems and help them meet mandated standards for improving quality of care and services provided (NCSL, 2005). For example, these reviews include Child and Family Services Reviews (CFSRs) conducted by the state and citizen review panel (CRP) evaluations conducted by community groups . Accountability for compliance with performance standards is provided through congressionally mandated child and family services reviews. "The reviews evaluate whether states actually are improving outcomes for the children and families whom they serve through child welfare agency programs" (NCSL, 2005, p. 1). Based on the outcome of these reviews, agencies are assisted in developing Program Improvement Plans (PIP) to identify training, technical assistance, and state and federal support needed to accomplish the goals outlined in the PIP (NCSL, 2005).

Accountability in the New Jersey Child Welfare Agency

Within the New Jersey Division of Youth and Family Services, the accountability environment as defined by Kearns (1996) involves several internal and external agencies including, but not limited to: U.S. Department of Health and Human Services, federal and state legislative bodies, Citizen Review Panels, the federal court system, child advocacy groups, and individual citizens. These represent a cross section of bureaucratic, legal, professional, and political entities with different philosophies and expectations for accountability and reporting formats (Romzek & Dubnick, 1987).

Bureaucratic accountability systems are levels of administration and authority that exist within an organization to ensure the mission, goals, and objectives are being met. This typically involves supervisory and management activities that guide the level of skills required by workers, standards of practice, formation and implementation of policy, decision-making in the day-to-day operations, and oversight in reporting the activities of the organization to outside agencies (Romzek & Dubnick, 1987).

Legal accountability involves mandated standards of practice and reporting imposed by a court or legislative body. Public administrators are responsible for the implementation of policies and practices and accountable for the extent that levels of accountability by the government, whether, federal, state, county, or local are achieved. In terms of the New Jersey Division of Youth and Family Services, examples of legal accountability include the 1997 Federal Adoption and Safe Families Act (ASFA), Child Abuse Prevention and Treatments Act (CAPTA) established in 1974 and Reauthorized in 1996, and Title IV-E of the Social Security Act.

Finally, professional accountability involves the norms, values, codes of ethics, and professional standards of practice that govern the services provided. Professional social welfare, child advocacy groups, and other similar entities provide professional accountability. Finally, political accountability is provided by those who exert control over representatives of the public who work in government (Redford, 1969).

Romzek and Dubnick (1987) pointed out that what typically happens is one accountability system will impede the efforts of another. The complex nature of these interweaving systems often results in gaps between standards of accountability to be achieved and the ability of the agency to meet those standards given the financial,

political, legal, and social environment in which it operates (Romzek & Ingraham, 2000). Often, there is a gap between what ideally should be achieved and what can be achieved in reality (Kim, 2005).

In terms of accountability with the child welfare system in the U.S., explicit rules, procedures and standards of administration, professional practice, best care for children, and reporting are highly codified (e.g. CAPTA reporting requirements). There are detailed manuals available to public administrators defining the accountability mechanisms to be used to assess adherence to standards and compliance with mandates and associated regulations and policies. Changes in policy and practice, unfortunately, are often driven by tragic or significant events that have caused the public to demand action and reform of the system (Romzek & Ingraham, 2000). This has been the case for New Jersey and attempts at reform of its child welfare agency, the, DYFS.

Children's Bureau Child and Family Service Reviews - Congress authorized the implementation of Child and Family Services Reviews (CFSRs) in 2000. With support from the federal government, it is the responsibility of states to conduct statewide assessments that include the onsite evaluation of three sites in the state. By 2004, the first round of CFSR's conducted by the Children's Bureau under the auspices of the U.S. Department of Health and Human Services (DHHS) had been completed by the District of Columbia, all 50 states, and Puerto Rico. Based on these reviews, no state was found to be compliant with outcomes measured by the CFSR's. To correct system deficiencies, state agencies were required to submit Plans for Improvement Plans (PIPs) on how these deficiencies would be corrected. The second round of CFSR reviews began in 2007 (NCSL, 2005).

Seven outcomes and seven systemic factors are measured through the CFSRs to assess the extent that states conform to the requirements of Title IV-B of the Social Security Act. The overarching purpose of CFSRs is to enable the Children's Bureau to evaluate state conformity to child welfare mandates, determine the level of services provided, and assist state agencies to meet the needs of the children and families receiving services. The quality of the services provided are assessed using state child welfare data that is compared with national standards, qualitative information obtained through case record reviews, and interviews with child, families, and other relevant parties (NCSL, 2005). Once reports have been filed, states' performance is evaluated based on how well the state has met national outcome standards.

CFSRs are important accountability measures that provide greater transparency to the public about how well public funds and resources (both material and human) are used effectively by state child-welfare agencies. CFSRs provide information in four broad areas. First, it provides a set of national benchmarks that public administrators can use as a set of standards against which child-welfare agency performance can be evaluated. Second, the results of the CFSR provide public administrators with a comprehensive review of the state system through mandated statewide assessments. Third, the results and processes provide information in terms of meeting outcomes and identifying underlying system factors that influence these outcomes. Finally, CFSRs provide a framework for reform using Program Improvement Plans (PIPs). The second round of CFSRs will be used to evaluate the extent that PIPs and other reform efforts have resulted in positive reform of the system (Children's Bureau website *Child Welfare Monitoring* section: Fact sheet for Governors).

As part of the system of accountability set up to monitor the child welfare system, the federal government through the Child Abuse Prevention and Treatment Act (CAPTA) Amendments of 1996 (Public Law 104-235) mandated the inclusion of citizen review panels (CRPs) as a component of child welfare services evaluations (Bryan, Jones, Allen, Collins-Camargo, 2007). Members of CRPs are members of the community who volunteer their time and services toward improving the services provided through state child welfare agencies. According to the U.S. Department of Health and Human Services (1998), the role of the CRP is to provide an external source of accountability and evaluation and recommendations for creating more efficient and responsive child welfare agencies.

By 1999, every state, the District of Columbia, and Puerto Rico were required to have a minimum of three Citizen Review Panels. These panels are to meet at least four times a year and submit annual reports to the federal government of the results of their evaluations of how well agencies in their state are in compliance with CAPTA mandates along with recommendations for improvement (Jones et al., 2003). However, the effectiveness of CRPs as a source of external accountability is influenced by several factors that include, but are not limited to, panel composition, communication between child welfare agencies and CRP panels and between different panels interstate and intrastate, role awareness and conflict, level of trust and collaboration, access to information, goals and objectives of the panel, and level of community involvement (Jones et al., 2003).

Using Litigation as a Tool for Reform: Accountability through the Courts

In the United States, most state child welfare agencies are large bureaucracies. This presents unique challenges to those who manage these systems, those who work within them, and the children and families who receive services from them. When the system breaks down and adequate care is not given to those in the care of the child welfare agency, there are demands for change. Policy-makers, the public, the media, and advocacy groups hold differing ideas about how to bring about reform (Borgersen & Shapiro, 1997a). This lack of consensus on action to be taken and a lack of urgency by politicians to provide the policy and funding structures necessary to foster and sustain change often results in stagnation and a continuation of the status quo.

This disconnect between the public's demand for child safety and its willingness to pay for it—in terms of both dollars and state intrusion—often has tragic consequences. The principal victims are children abused by the very system that is supposed to protect them. . . . Caseworkers powerless to help are also victimized. (Center for the Study of Social Services (CSSS), 1998, pp. 1-2)

In addition to statutory and funding constraints, CPS agencies are limited in their capacity to respond to challenges by highly stressed supervisory and caseworker staff, often represented by unions, who perceive themselves as over-worked and underpaid. Efforts at reform are often thwarted by inadequate funding, resistance to change, shifting political climates, and legislative inaction.

The public agencies that serve them [children and families] lack the resources, political will and administrative capacity to mount and sustain the kind of strategic planning effort needed for system reform. Here the pattern is of failed reform efforts, each one sapping strength and morale for a system already stretched beyond capacity. (CSSS, 1998, p. 2)

Amid these failed efforts, stories of abuse, neglect, and even the death of children in protective care of the state increasingly have led many child advocate groups to resort

to class-action lawsuits as an avenue for reform. “A ‘class action lawsuit’ is a civil court procedure under which one party, or a group of parties, sue as representative of a larger class of individuals” (Bilchik & Davidson, 2005, p. 2). Settlement agreements from these cases often result in federal or state judicial oversight of court mandated changes and public accountability, with varying degrees of success in bringing about positive and sustainable reform (Eisenberg, 1998).

In the short term, these settlement agreements often lead to a public outcry of the failing of the system, political attention given to the situation, increased workforces and the funding to sustain them, and intense monitoring of the policies, procedures, and everyday functioning of the agency. However, increased outside attention rarely is sufficient to create a fundamental change in the system.

Fundamental system change cannot be imposed from the outside. It must grow out of a process that engenders “ownership” of the reform plan by those charged with implementing and sustaining it. . . . litigation that requires parties who have been adversaries to build enough trust to embark on a long and difficult reform process: a transition, in short, from litigation to effective strategic planning, which is incredibly difficult. (CSSS, 1998, p. 3)

Those who advocate the use of the courts as a path to reform, argue that the use of a litigation strategy can lead to real and sustainable change by forcing agencies and elected officials to acknowledge the severity of the problems in their child welfare institutions and to focus attention on resolving these deficiencies (Rosenberg, 1991).

It can create a space within which former adversaries can commit to and work toward the common goal of child safety, and begin building the high quality system of care they all want. It can sustain the commitment over the years necessary to realize it, outlasting bureaucratic intransigence and political vicissitudes. (CSSS, 1998, p. 3)

As an option for instigating reform, advocacy groups have used a litigation strategy in response to what they perceive, correctly or incorrectly, as a failure of public administration or political policy to follow through on identified problems and promises for action (Mnookin, 1985). “This, in a nutshell, is why child welfare services are in such a widespread state of disarray: a classic case of official nonaccountability to a disempowered clientele” (CSSS, 1998, p. 5). For example, In Kansas, concerned citizens and advocacy groups became frustrated when the political process was hampered by changes in policy and the legislators themselves. A lawsuit brought this situation out in the open and forced the creation of a “Task Force appointed by the judge that brought agency officials and child advocates together with outside experts to help settle the litigation” (CSSS, p. 5). In Alabama, litigation forced politicians and agency administrators to work to develop a plan that could be implemented in welfare agencies across the state. While problems were encountered, progress was made, due largely to the power of the court to enforce mandated changes in the system and the ability to monitor compliance. Those who support the practice of using a litigation strategy for reform argue that this process can bring together strong political support in collaboration with stakeholders internal to the welfare system (Borgersen & Shapiro, 1997a, 1997b).

However, using a litigation strategy as a means of bringing about reform is not supported by everyone and can lead to those opposing the intrusion of the courts working to undermine the changes being implemented. Critics of this method of change argue that class-action lawsuits drain valuable time, human resources, and money from the system that is forced to follow ill-conceived and implemented mandates. This creates an environment that places added stress on the system and can lead to a demoralized and

angry frontline and administrative workforce that becomes entrenched and resistant to any efforts at change. Critics also argue that using a litigation strategy is adversarial by its nature because “institutional reform litigation represents a failure of the political process” (CSSS, 1998, p. 7). Court ordered changes often involve a degree of specification that is impossible to achieve in the “real world.”

Those who advocate the use of a litigation strategy respond that to bring about effective change, “all the usual suspects in an institutional reform case—the judge, the lawyers, and the litigants—have to transcend their traditional roles in order to be effective in the institutional reform process” (CSSS, 1998, p. 7). This process is either hampered or facilitated by the judge who plays a key role in reviewing recommendations and making decisions about the course of action the institution will be required to follow (Mnookin, 1985). In many cases, the judge appoints a panel of experts who monitor the institution’s progress in meeting mandated requirements. The challenge for the members of these panels is to be seen as collaborators rather than as adversaries and to help transform court rulings into workable solutions (Farrow, 1996). The results of case studies demonstrate that it takes both expertise and the involvement of all stakeholders in the reform process to create institutions that reconnect the community and their child welfare system (CSSS, 1998, p. 7).

The power of the court to bring reforms does have its limitations. Judicial power is constrained by the qualities that distinguished it from political decision making: neutrality, and articulated rationality within a legal framework. Court orders must be supported by findings of fact and conclusions of law, remedies should be ‘narrowly tailored’ to specific legal violations, and not intrude unduly on the discretion of agency officials. (CSSS, 1998, pp. 8-9)

Applying legal remedies that are too broad make it difficult, if not impossible, for individuals within and without the institutional bureaucracy to handle the complex problems that created the need for reform in the first place (Fletcher, 1982).

However, Class action litigation can be a vehicle for starting this process even in communities that lack the wherewithal to do so on their own. Indeed it is the only realistic route to reform in the places hardest hit by the child welfare crisis. . . . It has the potential to make government work for the vulnerable citizens we reluctantly entrust to its care. (CSSS, 1998, p. 14)

Those who support the use of a litigation strategy agree that an important role of the court is to provide the power and authority, if necessary, to force action. When there is a stalemate or inactivity, the court can issue a contempt order that forces those involved to come back to the table and work collaboratively to find a workable solution (Levine, 1995). While the class action lawsuit can serve an important role in devising a multi-faceted strategy of reform for complex problems, litigation must be used with caution. Success is strengthened when the impetus behind the use of a litigation strategy is to work collaboratively to design, implement, and support practical and workable strategies for change (Brest & Kreiger, 1994). In the end, the same basic tenets of successful reform must include:

- Parental and citizen involvement in articulating needs, values and desired outcomes for families and children, and holding the agency accountable for achieving them;
- Detailed knowledge of local, state, and national resources;
- A focus on training and retaining excellent front-line workers;
- Building an administrative infrastructure to support the workers;
- Building a political infrastructure to support the system, and hold it accountable for achieving desired outcomes for children and families. (CSSS, 1998, pp. 13-14)

Charlie & Nadine H. v. McGreevey Settlement Agreement: The Expert Panel -

On September 2, 2003 the New Jersey court approved a comprehensive settlement agreement that included the creation of an expert panel. For the first time in New Jersey's history, DYFS was under court order to work collaboratively with an oversight panel of independent experts who had complete authority over all aspects of DYFS, whether or not it was included in the lawsuit. The panel had oversight authority for 18 months after which it was to be dissolved and replaced by an independent monitor. This oversight panel was similar to one created several years prior in a New York City lawsuit, *Marisol v. Giuliani* (the Marisol panel). However, the New Jersey panel was given a wider span of authority than the Marisol panel. The New Jersey panel was:

Independent of local, state, and federal government. It has far-reaching authority over all aspects of the child welfare system. The panel is authorized to ratify the reform plan, establish specific legally enforceable outcome measurements for the state, and determine whether state progress is untimely and/or insufficient—a finding that would entitle plaintiffs to seek court enforcement. (*Spotlight on Child Welfare*, 2004, p. 4)

Funded by the Annie E. Casey Foundation, a Baltimore-based child welfare research and advocacy group, the expert panel, was composed of five members with expertise in working with children and adolescents and working with child welfare agencies that provided services to families and children at risk. The panel included a doctor, one other member, and three public policy researchers, including two senior fellows from the Annie E. Casey Foundation.

1. Steven D. Cohen, Director of the Casey Strategic Consulting Group at the Annie E. Casey Foundation in Baltimore, MD.

2. Judith Meltzer, Deputy Director for the Center for the Study of Social Policy in Washin-gton, D. C.
3. Robert L. Johnson, MD, professor and interim chair of the Department of Pediatrics and University of Medicine and Dentistry of New Jersey in Newark New Jersey. Johnson was also the director of the Division of Adolescent and Young Adult Medicine at New Jersey Medical School and has focused his research on adolescent physical and mental health, adolescent HIV, youth violence, and risk prevention/reduction programs with specific emphasis on substance and alcohol abuse (para. 6)
4. Kathleen Feely, Vice President for Innovations & Strategic Consulting, Casey Strategic Consulting Group.
5. Beatriz Otero, Executive Director of the Calvary Bilingual Multicultural Learning Center in Washington, D.C.

The first six months after the panel was formed, members worked with the Department of Human Services to develop a plan to guide the reform. The short-term goal was to oversee DYFS safety assessment of all children in the foster care system. The panel was given complete access to all DYFS staff and documents. The recommendations made by the panel were enforced by the courts.

In collaboration with DYFS representatives, the panel developed outcome measures that were used to assess the progress DYFS made in providing a safe environment and improving the lives of the children in their care (Settlement of Class-Action Lawsuit, 2003, para. 3). The authority given to the panel in New Jersey included:

- Can disapprove of the state's plan, in which instance, the case returns to court with liability conceded for a court ordered remedy;
- Will set specific legally enforceable outcomes for children that the state must achieve;
- Will determine the specific aspects of the state's plan that will be legally enforceable by plaintiffs;
- Can determine that the state is making insufficient progress in certain areas, within the initial two-year period, in which case the plaintiffs can seek court enforcement. (Settlement of Class-Action Lawsuit, 2003, para. 7)

Overview of the Charlie and Nadine H. v. McGreevey Settlement Agreement Plan

During the first six months, the panel was actively involved in developing and implementing a comprehensive plan for reform of the New Jersey child welfare system (*Settlement*, 2003, paras. 1, 10). Department of Health Services Commissioner James Davey commented on the reform plan in May of 2004 stating,

The plan embraces a shift toward new paradigms in public administration that cannot advance without multilateral intergovernmental action combined with public and private partnerships. For instance, the plan creates a new division designed to partner with community leaders and organization to develop and expand prevention models and to decentralize ready access to local services for families. (*Spotlight on Child Welfare*, 2004, p. 4)

The state reform plan was presented to the court on June 9, 2004 and accepted on June 17, 2004 (*Settlement*, 2003). Outlined in the settlement agreement were the following eleven outcomes measures that were used to determine if the state was making adequate progress.

1. Decrease length of time in care for children with the goals of reunification.
2. Decrease length of time in care for children with the goal of adoption.
3. Increase proportion of siblings in foster care who are placed together.

4. Increase proportion of children in foster care who are appropriately placed with relatives.
5. Increase proportion of children in foster care who are placed in their home neighborhoods.
6. Decrease incidences of abuse and neglect of children in out-of-home care.
7. Decrease proportion of children in out-of-home care who are placed in congregate settings.
8. Decrease average number of placement moves experienced by children while in out-of-home care.
9. Increase the proportion of children in care, and their families, who receive the services they need.
10. Decrease the rate of re-entries into out-of-home care.
11. Reduce the number of adoptive and pre-adoptive placements that are disruptive.

In addition to the eleven outcome measures, the settlement agreement included six areas of concern that required emergency action. These included: (a) funding of \$22.35 million to provide space, materials and the hiring of additional personnel; (b) funding \$1.5 million to use for recruitment of additional foster parents; (c) conducting a safety review of children in foster care and institutional facilities; (d) conducting an immediate review of licensing standards and hiring processes; and (e) immediately procuring urgently needed supplies (*Settlement of Class-Action Lawsuit*, 2003, para. 2).

In the plan were outlined substantial reforms. The following section provides an overview of these reforms. Outlined in the plan was the need to reorganize the structure of DYFS. This structural reorganization included the creation of the Office of Children's

Services (OCS) that would be headed by a deputy commissioner who would provide coordination and oversight of services provided by the: (a) Division of Youth and Family Services, (b) Division of Child Behavioral Health, (c) Division of Prevention and Community Partnership, and (b) Office of Trainings. The reorganization would involve decentralizing the DYFS by replacing four regional offices with fifteen area offices that would be responsible for oversight of 47 district offices. For example, the Division of Prevention and Community Partnership (DPCP) would be headed by a new assistant commissioner who would work with area office community organizing team leaders. These individuals would work with DYFS to facilitate the creation of a state-wide network of prevention services by forming public and private community partnerships.

Several reforms were meant to address inadequacies in staff training. First, in order to assure adequate staffing levels, the DYFS was to contract with an outside agency to provide temporary social workers to help close cases. In addition, by the end of 2004, DYFS was to have hired 330 caseworkers to reduce individual worker caseloads.

To improve worker skills as well as provide training on new programs and the use of a new computerized information and data management system, the New Jersey Child Welfare Training Academy (NJCWTA) was to be established. This program was to be operated through the newly formed Office of Children's Services (OCS) under the leadership of the OCS assistant commissioner for training. The purpose of the training academy was to provide pre-service and in-service training for DYFS workers and other workers in the DHS system, contract agency workers, and resource families. This training was to focus on job skills training and cultural competency training to increase the

understanding and respect for cultural differences. In addition, caseworkers were to receive specialized training in providing care and support to adolescents.

The reform plan also included comprehensive changes to case practice. This would include the implementation of a Structured Decision Making (SDM) case management model to improve safety assessments of children (*A New Beginning*, 2004). Family team meetings would become part of the decision-making process. Meetings were to be held at the beginning of each case and at important decision points related to the child's care and well-being. An important component of family team meetings was the inclusion of family and pertinent relatives in the decisions made about the child.

Furthermore, a major change from current practice was to separate the staff responsible for investigating reports of abuse from those who monitored cases once the child was in the system. Allegations of abuse would be investigated by staff with specialized training in forensic investigation techniques. Cases were to be investigated within 24 hours of the initial report and the investigation was to be completed within 60 days. This would include the reassignment of 57 experienced staff from the Department of Human Services to DYFS. These workers would form impact teams with the responsibility of investigating reports of abuse and to help close cases where the child was determined to be living in a safe environment.

A staff of permanency workers would provide ongoing care and have the responsibility of maintaining the relationship with the family, involving staff with specialized training when needed. Each family would have a single primary permanency caseworker that was in charge of the child's care the entire time he or she was in the custody of the state. While the primary goal was to reunite children with their families,

concurrent efforts were to be made for adoption of the child if reunification was not possible. As much as possible, out-of-home care was to be in the child's community in order to maintain a sense of constancy in the child's life. In addition, to better serve the needs of adolescent children, the number of school based youth services programs were to be doubled from 44 to 88 and include programs in middle schools. These services were to be provided for 18 to 21 year olds and include medical coverage, job training and counseling and tuition assistance for post secondary or vocational training

It had often been cited that the health needs of children were neglected. To address this inadequacy, the DYFS was to have a registered nurse in every district office to facilitate medical assessments and make sure all children received a comprehensive pre-placement medical examination within 30 days. Children were to receive HMO coverage while in out-of-home care. The DYFS would also hire a medical director to "oversee all aspects of the system's protocols and policies for providing routine and emergency medical care" (*A New Beginning*, 2004, p.7).

Children in institutional care (e.g., juvenile detention or congregate care) were to receive a behavioral assessment that outlined the least restrictive environment in which their treatment needs could be provided. The number of treatment homes for children transitioning out of congregate care would be increased and the number of Youth Case Managers to coordinate behavioral health care was to be doubled. Finally, the availability of community and in-home services was to be increased and care management organizations were to be expanded to four new communities by February 2005.

Vital to the services provided by the New Jersey child welfare agency are the resource families who provide out-of-home foster care for children. DYFS was required

to hire 1,000 additional resource families. Resource families are “all of the families that are available to care for children and provide a home for them when they are in need” (*A New Beginning*, 2004, p. 6). To facilitate the recruitment and support of resource families, outlined in the plan was the creation of resource family support workers responsible for recruiting families and guiding them through the licensing and training process and helping those families find additional support needed to maintain a healthy environment.

To strengthen the services provided to children through DYFS, the manner in which services were provided across the child welfare system were to change. This included the establishment of a full-time English-Spanish bilingual staffed 24-hour intake hotline for reported cases of suspected abuse and neglect. This centralized system would replace 37 independent abuse/neglect reporting hotlines across the state. In addition, all workers would receive training on procedures for evaluating cases of reported abuse that would be based on a standardized set of guidelines.

Furthermore, greater emphasis was to be placed on prevention services and resources that addressed problems with substance abuse, mental health issues, domestic violence, and substandard housing or homelessness. To provide the best services and make access easier, the Division of Addiction Services would be moved from the Department of Health and Senior Services to the Department of Human Services. Increased collaboration with the police, the State Attorney General’s Office, and the County prosecutor would involve modifying the domestic violence protocol to include “provisions relevant to child safety” (*A New Beginning*, 2004, p. 9).

The plan also included expanding the PALS (Peace: A Learned Solution) program. This program was designed to provide comprehensive assessment and case management, as well as child care, before and after school programs, and educational support. A new program called the Shelter Housing Exit (SHE) would be created to assist women with children find safe housing once they left the shelter. This program was to operate in collaboration with the Department of Community Affairs (DCA). Seven different housing assistance programs were outlined and included:

1. Home Ownership Permanency Program to provide low interest mortgage loans for families in the final stages of adoption or becoming a legal guardian.
2. HOME Production Investment Funding to build 40 housing units for DYFS families eligible for low income housing subsidies.
3. Balanced Housing Neighborhood Preservation Funds to upgrade 250 resource family homes so they meet licensing requirements.
4. Establishing a low interest loan program for organizations to create transitional housing for children who age out of the DYFS system.
5. Establishing Section 8 housing vouchers for DYFS Families to provide, over the next five years, housing for an additional 100 families.
6. Providing Emergency Assistance funds for DYFS families at risk of becoming homeless.
7. Balanced Housing Funding to create, over the next five years, 160 housing units for those families moving out of transitional housing to more stable and permanent housing (*A New Beginning*, 2004).

In addition, the plan included increasing the board rate compensation to families and relatives of the child so that it was equal to compensation given to non-kinship resource families. The rate of compensation was to be increased in increments between 2004 and 2008 so that it was the same as the “rate set by the United States Department of Agriculture for middle income, two parent families in the urban Northeast” (*A New Beginning*, 2004, p. 5).

Prior to the settlement agreement, a serious problem within the New Jersey child welfare system was the use of an antiquated information and data management computer system. Those accessing the system often encountered difficulty using it, loss of information, or an inability to access data when needed (Raths, 2008). To improve access to information across all child welfare agencies, a state-of-the-art computerized Statewide Automated Child Welfare Information System (SACWIS) would be created. This system, called the NJ Spirit (Statewide Protective Investigation Reporting and Information Tool) was to be deployed by September 2005 but was not put in wide use until August of 2007. It was to provide data collection, case management, and report building capabilities. Another important component of the NJ Spirit was the connectivity it would provide between the DYFS and the State Attorney General’s Office by providing access to DYFS records that would help attorneys and others manage court cases (Raths, 2008). The \$70 million price tag for the system would be funded with 50% of the cost borne by federal dollars and the other 50% by New Jersey state legislature appropriated funds (Raths, 2008).

Lastly, accountability of the system was to be improved by engaging in continual monitoring, evaluating, and measuring all areas of the system to ensure meeting the

mission and goals of DYFS as well as obtaining accreditation by meeting national standards.

We will develop and apply new tools for collecting and reporting information on the outcomes in abuse and neglect casework, and we will create a performance-based contracting system so our vendors will be focused on these outcomes as well. (*A New Beginning*, 2004, p. 11)

This accountability was to include quarterly and annual reports of the progress of DYFS in meeting “a set of desired outcomes and indicators, as well as specific benchmarks for specific operational areas. . . . The outcomes and indicators are very broad in scope and set forth the overall expectations of the comprehensive reforms in the plan” (*A New Beginning*, 2004, p. 12).

Brief Overview of Expert Panel Monitoring Reports

During the 18 months it was to work with DYFS, the expert panel had two primary functions. The first was to provide leaders of the New Jersey child welfare system with technical assistance by sharing information and connecting leaders with experts who could provide assistance in developing and implementing reform. The second function of the panel was to oversee, monitor, and make judgments about the progress leaders made toward meeting improvement plans and requirements for reform as outlined in the settlement agreement.

The first panel monitoring report was submitted on March 7, 2005 and a second report followed on October 11, 2005. The first monitoring report by the New Jersey child welfare panel contained an acknowledgement that progress had been made toward effective reform of the system. However, several serious deficiencies were also cited. Cecilia Zalkin, the executive director of the Association for Children of New Jersey

stated “the report supports our concern that most efforts have focused on process and system changes, rather than changing front line practices that directly affect children and families” (Zalkin, 2005, para, 1). She wanted less focus on policy and more on practice coupled with greater accountability. Zalkin (2004) recommended that the state needed to change the plan to reflect this change in focus.

While the panel set clear priorities for moving forward, we would further narrow that list to focus on improving child safety, recruitment and retention of resource families and reducing caseloads. Plus, we believe that greater accountability is a cornerstone of the effort. It has been difficult to get reliable baseline data to effectively assess how the reforms are affecting children. (para. 9)

Another major concern discussed in the first monitoring report centered on the pace of training as well as the complex bureaucratic organizational structure of the New Jersey child welfare system. Panel members believed that state bureaucracy had hampered reform efforts, especially by the creation of new divisions in the Department of Human Services (DHS) without delineating clear leadership roles and responsibilities for those agencies (Zalkin, 2005). A lack of leadership and organizational issues were undermining the reform process. For example, five different budget offices were under the Department of Human Services and each office had authority over some aspect of the reform process. Stephen Cohen, Chair of the panel, recommended that the court force the state to create a cabinet level department to oversee child welfare. The Governor of New Jersey agreed with this recommendation and had already moved in that direction (Lipka, 2005).

The overarching finding by the panel on the second report was the failure of the state to make satisfactory progress toward meeting reform plan requirements. Progress was concluded to be seriously inadequate in several areas (Charlie and Nadine v. Cody,

n.d., *History & Status section*, para. 6). The number of leaders at the highest levels who had left the Department of Human services also posed another problem that hampered the reform process.

Overview of the Charlie and Nadine H. v. McGreevey Modified Settlement Agreement Plan

As a result of the panel's conclusions in the second monitoring report, the plaintiffs filed a "contempt motion against DYFS for failing to comply with the settlement agreement. Plaintiffs asked the court to appoint Governor-elect Jon Corzine as receiver of the child welfare agency" (Charlie & Nadine H. v. Cody, n.d., *History & Status section*, para. 6). If Children's Rights was not satisfied with the mediation process they had the power to ask the court to appoint a master or receiver to take control of the agency (Livio, 2005). However, the judge had the option of ordering the state to make changes instead of appointing a receiver. In October 2005, the Children's Rights organization, believing that the progress of the reform by the state was seriously inadequate and failed to bring about the desired reforms, ordered a 10-day mediation process. Children's Rights entered into mediation with the Jon Corzine administration to develop a new agreement that mandated reform of the entire New Jersey child welfare system. Judith Meltzer, who served on the original oversight panel, was the court-appointed monitor who would oversee the 2006 revised settlement agreement (Raths, 2008).

In October of 2005, State Human Services Commissioner, James Davey, informed the New Jersey Child Welfare Panel that at the end of December 2005, the panel would be dissolved and replaced by a single monitor chosen jointly by the Human

Services Commissioner and Children's Rights Inc. (who brought the suit against New Jersey in 1999) (Livio, 2005). The Children's Rights organization had advocated that the New Jersey child welfare system become a separate entity from Human Services because Human Services had too many layers of bureaucracy. However, the state resisted this change. "Human service officials have said it makes sense to have the agency be part of a larger one because it can get more deferral funding that way and more easily share resources with other parts of the agency" (Vihill, 2005, para, 19).

An outcome of mediation and the modified settlement agreement was the creation of the cabinet level Department of Children and Families agency in Governor Jon S. Corzine's plan for child welfare reform. All agencies related to child welfare, including DYFS would be under the control of the DCF (Raths, 2008). The new modified agreement was divided into two phases. Phase I began in July 2006 and ended in December of 2008. During Phase I the focus of reform was on building a foundation of fundamental knowledge and skills applicable to the tasks of the DCF. Phase II which began January of 2009 focuses on outcomes of the changes made during Phase I. The core of the modified settlement agreement is focused on:

1. Reducing caseloads and developing a new case practice model.
2. Workforce development and training in fundamentals that includes both pre-service and in-service training for caseworkers, investigators, and supervisors
3. Better management of data through an updated computer information data management system such as Sage Measures and NJ Spirit.
4. Working collaboratively with New Jersey stakeholders, frontline workers, and supervisors to improve adoption practices, and provide better resource family

development, services, and placement. This includes improving the delivery of critical services that support families in crisis and need as well as addressing the medical, mental health, and dental needs of children in out-of-home care by opening medical offices in DYFS branches as well as using a computerized case tracking system.

5. Placing children in out-of-home care with families in their neighborhood as much as possible or placing children with needed specialized care in facilities that are able to provide these services. Investing in developing adoption expertise among staff in all local offices by creating impact teams to address the backlog of children awaiting permanent placements.
6. Recruiting and licensing foster and pre-adoptive families and providing assistance in facilitating the timely completion of all requirements.
7. Increasing accountability by making public critical child welfare indicators.
8. Working collaboratively with the court appointed monitor of the settlement agreement while retaining the flexibility to make improvements and adjustments where necessary.
9. Replacing the list of over two hundred legally enforceable tasks from the original settlement agreement by establishing accountability on outcomes for children and families (New Jersey Department of Children and Families, *Summary of Settlement Agreement* section, para. 1).

During Phase II of the modified settlement agreement, focus of reform will take place in three broad areas that include:

- Outcome indicators: Targets safety, permanency, and stable and appropriate placements for children.

- Performance indicators: Targets achieving reasonable caseload standards; executing timely investigations; supporting a sufficient pool of resource families; ensuring visitation for children with parents, siblings, and caseworkers; and maintaining high quality in healthcare, adoption, and overall case practice.
- Advanced practice: Targets development of improved practices in contracting, quality improvement, and needs assessment, while requiring maintenance of high levels of practice in the areas of resource families and workforce development. (New Jersey Department of Children and Families, New Agreement section, para. 1)

Overall, Judith Meltzer, the court appointed monitor, stated that she was encouraged by the progress made since the implementation of the modified agreement and the efforts of those in leadership to move reform forward in a positive direction. She stated,

It's not fixed yet, but I am supportive of their leadership and the urgency they are showing. . . . [Officials] have lived up to all their commitments, have brought in the type of strong leadership and management they need, and they have focused on data. (Raths, 2008, p. 3)

Judith Meltzer reported that between June and December of 2007, worker caseloads were reduced, the number of foster families and adoptions increased, and the use of shelters and out-of-state facilities diminished. However, at the same time, Governor Jon Corzine was in the process of finding a replacement following the resignation in February 2008 of Kevin Ryan, Commissioner for the Department of Children and Families.

By 2008, Judith Meltzer reported that over all DCF had complied with the modified agreement and had fulfilled or exceeded most expectations. In 2006, only 40% of DYFS offices met caseload standards of permanency staff and only 17% of offices met intake caseload standards for those responsible for investigating allegations of child abuse. By the end of 2007, 100% of offices met permanency staff and 73% of offices had met intake staff caseload standards (*Commissioner Crummy Testimony*, 2008). In 2007,

DYFS had set a record in New Jersey for the number of adoptions out of foster homes in a single year. There was also a gain each year in the number of foster families for the years 2006 and 2007. Finally, 93% of positions in DYFS directly serviced the needs of children and families with only 7% of personnel working in administration position that do not deal directly with these clients. The Commissioner of DYFS pointed out that in the FY2009 budget only 4% of the total budget was allocated for administration and support services costs (*Commissioner Crummy Testimony*, 2008).

A report detailing the progress of DCF during July to December of 2007, noted the state had made significant gains in adoptions, increased number of foster families licensed by the state, workforce improvements, reduction of children assigned to caseworkers, increased pre-service and in-service training, and the implementation of a new case-practice model for providing services to children and families (*New Jersey Continues Making Progress*, 2008, para. 2). However, the implementation of the revised plan was hampered to some degree by the high turnover of leaders in the highest positions of the Department of Children and Families (DCF). This included the resignation of the DCF Commissioner, Kevin Ryan, DCF Chief of Staff Lisa Eisenbud, and Director of Policy and Planning, Molly Armstrong in the beginning of 2008 (*New Jersey Continues Making Progress*, 2008, para. 1). A member of the original panel had stated three years earlier that part of the problem with the system was that the leaders had lost credibility with the public and the ability to implement changes (Jones & Kaufman, 2003, para. 15). This perception was worsened by the seemingly constant changes in leadership. Also stated in the report was that major challenges that could hamper the ability to meet goals that included the management transition to new leadership, use of

the new child welfare case-practice model, implementing health initiative changes, and passing a state budget in 2009 that provided adequate resources.

The Costs of Funding Reform

One problem faced by child welfare and other social service agencies across the nation is providing services with limited resources. Those who recognized the problems with DYFS pointed out that the system had,

Been asked to do too much with too little for too many years. And the New Jersey Division of Youth and Family Services. . . has been particularly neglected underfunded and understaffed. As a result, it has been unable to provide adequate care and supervision of children in need of protective services. (*A New Beginning*, 2004, p. 1)

This situation is what contributed to the abuse, neglect, and death of children in the custody of DYFS. The plan resulting from the settlement of the Charlie and Nadine H. v. McGreevey class-action lawsuit in June of 2003 was written to deal with the substantial inadequacies in the DYFS system. Part of the settlement agreement required the Department of Human Services to restructure the entire DYFS child welfare system and to provide additional funding (*A New Beginning*, 2004, p. 1).

In the summer of 2003, the state of New Jersey realigned some of its resources, allocating \$22.35 million for hiring staff and acquiring space and equipment, \$1.5 million to recruit additional foster parents, and \$26.8 million to implement the Statewide Automated Child Welfare Information System (SACWIS) to connect DYFS workers in the field with vital information and resources (*Spotlight on Child Welfare*, 2004, p. 4). Out of the \$23.5 million, the state was given the responsibility of obtaining \$14.3 million by August 1, 2003 to hire additional case managers, supervisors, and other essential

personnel. By July 1, 2003, the state was to allocate another \$8.05 million to maintain appropriate staff levels. Finally, the state was to use \$1.5 million to recruit new foster homes (*Settlement*, 2001, para 13). However, at the time the settlement agreement was made, the state was facing a \$5 billion deficit (Jones & Kaufman, 2003).

Changes to DYFS were to take place from the top (i.e., Commissioner of the Department of Human Services) of the bureaucratic hierarchy to the bottom (i.e., caseworkers in the field) as well as changes in resource allocation, accountability, interaction with the community, and increased involvement with other agencies outside of DYFS. It was expected that the plan would take three to five years to fully implement and cost approximately \$320. The first \$125 million was allocated in the FY2005 State Budget adopted by the legislature in June of 2004 (*A New Beginning*, 2004). Other sources of funding were to include leveraging federal funding, and donations from private foundations, civic minded businesses, corporations, and community organizations. From the beginning, the Annie E. Casey Foundation provided substantial support to the panel. Between 2004 and 2007, the state had dedicated \$481 million to reforming the New Jersey child welfare system and the oversight is expected to continue until 2012 (Livio, 2007).

In 2006, The Department of Children and Families received \$1.4 billion to fund the services of all the agencies under its structure. Of this money, \$974 million is state funded with 75% of this money being continuation funding from the 2006 Office of Children Services FY06 budget (*Commissioner Ryan Testimony*, 2006). In 2006, New Jersey Governor, Jon Corzine proposed an additional \$255 million for DCF with half of the funds transferred from the Department of Human Services budget. That year

Commissioner Ryan stated DCF was requesting an additional \$19.4 million to fund training the workforce (*Commissioner Ryan Testimony*, 2006). A total of \$31.5 million was invested in the development of SACWIS between 2003 and 2006 with federal funding accounting for \$15.7 million of the money needed to implement the new system (*Commissioner Ryan Testimony*, 2006).

Over all, there was an \$18.4 million reduction in the proposed budget. For the FY2009 DCF budget, \$11.8 million was acquired by reducing residential contracted services for some of the agencies who provide out-of-state care and in-state facilities unable to meet the treatment requirements of children. The FY2009 budget included \$10.2 million to annualize the cost of living adjustment for social services providers. An increase in the budget included \$3 million to fund the requirements of the modified settlement agreement; \$2 million to support services and \$1 million to extend subsidy payments for families who adopt teenagers (*Commissioner Crummy Testimony*, 2008).

Measuring Outcomes

Accountability includes both establishing standards of performance and measuring outcomes in relation to those standards. The type and quality of data obtained will affect the extent that the outcomes can be accurately assessed. Poertner, Mc Donald, and Murray (2000) reviewed both published and unpublished reports, comparing the quality of these reports over a 10-year period to assess how outcomes were defined and measured across three broad areas: safety, permanency, and well-being. Poertner et al. found that safety was assessed based on rates of child abuse and neglect that occurred

after a case had been closed, while the child was still in the care of the state, and while a child was in substitute care.

In terms of measures of permanency, these have remained the same. Permanency is measured based on rates of reunification with birth families or guardians, percent of children who move from foster care back home, rates of adoption disruptions, and return to substitute care. Finally, Poertner et al. (2000) reported insufficient measures being used to assess well-being. The most frequently used measures included medical care and feeling safe and loved while in the child welfare system. Less often used measures of well-being included those related to independent living such as education, employment, pregnancy/parenting, and contact with family. In addition, Poertner et al. (2000) noted that because of differences in agency policies and practices, it is difficult to make comparisons at the agency and field levels. They also recommended that changes needed to be made at the organizational level that involved the inclusion of field level workers and those who receive agency services as part of the outcomes measurement process.

Problems Continued to Plague the New Jersey Child Welfare Agency

In spite of efforts to reform child welfare, children continue to receive inadequate care and supervision. Following the Charlie and Nadine H. v. McCreevey 2003 settlement agreement and implementation of the reform plan, problems continued to plague the New Jersey child welfare system. In 2003, seven year old Faheem Williams while in the custody of the New Jersey child welfare system was found dead in a relative's home; locked in the basement with his starving brothers. Caseworkers had not checked on the child's welfare and had made a dangerous error by improperly closing his

case (Eviatar, n.d., para 1). The death of Faheem Williams galvanized public opinion and convinced the governor that drastic action was warranted, forcing McGreevey to restructure the child welfare system and hire a new commissioner (Jones & Kaufman, 2003, para. 10). “The child welfare agency had flunked its first big test since the settlement. And the boys’ plight became the latest symbol of the government’s continuing failure to protect children” (Eviatar, n.d., para. 42). More recently, in 2007, a lawsuit was filed against DYFS when it failed to act to protect a child after a report of abuse have been filed. Eventually a caseworker followed up on the report and found the child had exhibited signs of abuse; however, it took three weeks following the caseworker’s report before the child was removed from the abusive environment (Kelley, 2007, p. 2). Unfortunately, this was not an isolated case of failure to protect a child in DYFS care.

CHAPTER FOUR – RESEARCH METHODOLOGY

A case study approach using semi-structured interview and program evaluation methods will be used to examine the effect of external public entity demands for accountability and reform of the New Jersey Child Welfare agency. The evaluation will include information obtained through semi-structured interviews of oversight panel members and the collection of key documents in the form of welfare panel monitoring reports, state reports, and statistics. The information gathered and analyzed will be used to answer the following research questions in relation to the ability of the agency to address issues of accountability and reform.

1. Did the Litigation strategy enhance the capacity for The DYFS to meet the organizational and performance goals set by the oversight panel?

To operationalize this question, the following sub-questions are being examined:

- 1a. To what extent did the litigation and oversight strategy result in DYFS making significant progress toward meeting the performance goals identified by the oversight panel?

Significant progress will be measured by assessing the degree to which DYFS was able to meet the eleven performance goals set by the oversight panel in the 2006 modified settlement agreement. These performance goals are listed as follows:

1. Decreased length of time in care for children with the goals of reunification.
2. Decreased length of time in care for children with the goal of adoption.
3. Increased proportion of siblings in foster care being placed together.
4. Increased proportion of children in foster care appropriately placed with relatives.

5. Increased proportion of children in foster care placed in their home neighborhoods.
 6. Decreased incidences of abuse and neglect of children in out-of-home care.
 7. Decreased proportion of children in out-of-home care being placed in congregate settings.
 8. Decreased average number of placement moves experienced by children while in out-of-home care.
 9. Increased proportion of children in care, and their families, who receive the services they need.
 10. Decreased the rate of re-entries into out-of-home care.
 11. Reduced number of disruptive adoptive and pre-adoptive placements.
- 1b. To what extent did the litigation strategy enhance the system capacities of DYFS?
- Sub-questions to be addressed include:
1. To what extent did the relative flexibility of the process lead to greater parental and citizen involvement in articulating needs, values and desired outcomes for families and children to hold the child welfare agency accountable for achieving them?
 2. To what extent did the use of a litigation strategy lead to increased knowledge and understanding of local, state, and national resources?
 3. To what extent did the use of a litigation strategy lead to the development and implementation of an effective training program?
 4. To what extent did the use of a litigation strategy lead to higher retention rates of excellent front-line workers?

- 5 To what extent did the use of a litigation strategy lead to building of an administrative infrastructure to support the workers?
 - 6 To what extent did the use of a litigation strategy lead to the development of a political infrastructure to support the system?
 - 7 To what extent did the use of a litigation strategy hold the political infrastructure accountable for achieving desired outcomes for children and families?
2. Did the litigation and oversight strategy contribute to the overall accountability of DYFS to its statutory mission of protecting children and serving families? The terms of performances and system changes document in question 1 and the realization of the performance and system goals set for DYFS by the 2003 and 2006 agreements?

Case Study Analysis

A case study methodology will be used to answer the research questions. The case study method was chosen because it incorporates more than one data collection method, thus allowing the researcher to triangulate and validate the data collected. This evaluation will involve two approaches. First, semi-structured interviews will be conducted with key individuals involved in the Charlie and Nadine H. v. McGreevey lawsuit settlement agreement and later modified settlement agreement that includes the oversight panel members and court appoint monitor. In addition, key documents will be examined as a means of assessing the extent that litigation has been successful or unsuccessful in leading to effective reform of the New Jersey child welfare agency.

The case study is frequently used when a goal of the research is to describe, explore, or explain a case using both quantitative and qualitative procedures using a

variety of data sources (Creswell, 1994; Yin, 1989). “The study of a case involves the use of the observer’s personality as an instrument of observation of an ongoing series of interacts. This is particularly true where the case study includes personal contact” (Cottrell, 1941, p. 365). In addition, the case study approach provides a means of evaluating “how” and “why” questions of a complex case within a defined period of time (Leedy & Ormrod, 2005).

Leedy & Ormrod (2005) stated that “In a case study, a particular individual program, or event is studied in-depth for a defined period of time” (p. 135). The case study is well suited for conducting a program evaluation, especially when in-depth interviews of key stakeholders are part of the evaluative process. According to McDavid & Hawthorn (2006),

In the context of programs evaluations, it is often much easier to communicate key findings by using case examples. Qualitative evaluation often relies on case studies in-depth analysis of individuals (as units of analysis) who are stakeholders in a program. Case studies, rendered as stories, are an excellent way to communicate the personal experiences of those connected to the program. Although performance measurement has tended to rely on quantitative indicators to convey results, there are alternatives that rely on qualitative methods to elicit performance stories from stakeholders. In settings where data collection capacities are very limited, qualitative methods offer a feasible and effective way to describe and communicate performance results. (pp. 196-197)

This is supported by Patton (2002) that by using evaluation case studies, a rich picture can be developed that tells the story of what happened when, to whom, and under what circumstances. According to Patton, “understanding the program’s and participant’s stories is useful to the extent that those stories illuminate the processes and outcomes of the program for those who must value the findings and find them credible” (p. 2).

The study of the New Jersey child welfare system must take into account the complexity of the system; the behavior of any member of the system must be understood into the context of the whole.

A situation or a situational context is a perspective bound conception. That is to say a situational field can only be perceived and described from one position or role perspective at a time. Each member of the situation is responding to it not as seen by some master mind above and outside the situation but as he perceives it. It should be noted that situational fields vary in size, duration, and frequency of repetition. Situations as the term is used here may be interpersonal, intra-person, inter- and intra-group. (Cottrell, 1941, p. 359)

The case study is considered an appropriate methodology to use when the goals is to investigate the actions and outcomes of a program bounded by time and activity (McDavid & Hawthorne, 2006; Patton, 2002). In the context of a program evaluation, the case study approach can be used to examine a program across several dimensions and provide “the reader with a real understanding of the program and the many different ways it might be viewed” (Fitzpatrick, Sanders, & Worthen, 2004, p. 308). The strength of the case study approach is that it allows the researcher to examine dynamic processes from a naturalistic setting within the context of local situations and conditions (Johnson & Onwuegbuzie, 2004).

As with any approach, there are weaknesses to using a case study method. First, case study research is often highly labor intensive. Second, it can be difficult to synthesize the different sources of data collected into a rich picture of the phenomenon being studied (Denzin, 1984). Third, it can be difficult to generalize the findings of a study beyond the case being investigated (Yin, 1994). Fourth, there is the “opportunity for unconscious projection of the observer’s own self-other (expectancy-response) patterns on to his cases” (Cottrell, 1941, p. 368). Data gathering in a case study involves

social interaction and data analysis always involves some level subjective interpretations as the researcher interacts with the data (Cottrell, 1941). This research projection is unavoidable. The more clearly the researcher acknowledges this weakness, the more valid the method is likely to become. Finally, ethical problems can arise when the study involves sensitive issues or when it is necessary to protect identities and rights of people or organizations who are the subject of the enquiry (Gall et al., 1996).

Trend Analysis

As a means of assessing changes over time, a trend analysis methodology will be used in the present study. Trend analysis involves the study of variables “through time and interprets their relationships” (Lazarfield & Rosenberg, 1955, p. 203). A trend analysis is a longitudinal study that involves collecting data from the case under study across different points in time in order to study changes or continuity in the case characteristics (Fitz-Gibbon & Morris, 1978). The trend study is a common method used to sample different people or groups over time from the same population (in this case, those who worked for the New Jersey child welfare system). However, there is no experimental manipulation of variables and the researcher has no control over the independent variables (Lazarfield & Rosenberg, 1955).

By examining trends over time, the researcher can detect patterns, shifts, and changes. The use of trend analysis provides flexibility and cost effectiveness because it often involves the use of secondary data. However, a disadvantage of using trend analysis is threats to internal validity due to unreliable data, inconsistent measures, and researcher

bias resulting from the way interview questions are asked, interpreted, and compared to other sources of data (Fitz-Gibbon & Morris, 1978).

In the present study, the trend analysis will involve studying a population and case that does not remain constant but is changing and evolving in response to litigation strategy. At each data collection point, there will be changes in leadership, funding, policy, and reporting entities. The trend analysis will be accomplished in two phases. The first phase will involve developing a qualitative way of implementing and completing a content analysis of the transcribed interviews and key documents. The second phase will involve completing a program evaluation to determine the extent that the 11 performance outcomes of the New Jersey DYFS were achieved.

The goal of using a trend analysis methodology is to assess: (a) the extent that the use of a litigation strategy has enhanced the overall accountability of the New Jersey child welfare agency (DYFS) to its statutory mission; (b) the extent that the litigation strategy helped or hampered the ability of the DYFS to make progress toward meeting the requirements of the original (2003) and the modified (2006) settlement agreements of the *Charlie and Nadine H. v. McGreevey* (1999) class-action lawsuit, and (c) the extent the litigation strategy resulted in the DYFS making progress in meeting eleven performance goals outlined in the 2003 agreement plan developed by the expert panel appointed by the court as part of the lawsuit settlement.

A historical trend analysis is well suited for the present study because it utilizes longitudinal observations of the same phenomena over an extended period of time (Fitz-Gibbon & Morris, 1978; Lazarfield & Rosenberg, 1955). Use of trend analysis will involve collecting data in several areas that include:

1. Demographic trends and changes in the population in terms of size, age groups, at risk groups, etc. that might have placed demands on the DYFS system that affected its ability to meet the needs of the population it serves.
2. Organizational analysis of the extent that knowledge and skills are present among DYFS organizational members.
3. How changes to the system have either helped or hampered that ability of new entrants to the DYFS system to access its services.
4. Changes in technology that have increased accurate data collection, internal access to information, and external reporting of suspected cases of abuse, etc.
5. Economic trends that have influenced budget appropriations and funding of the DYFS agency that affect its ability to meet the provision of the settlement agreements and program outcomes.
6. Changes in the strategic plan in response to changes to the DYFS system and the needs of the clientele it serves.
7. The long and short term changes in governmental policies related to reform of the New Jersey child welfare agency following the 2003 settlement agreement in the *Charlie and Nadine H. v. McGreevey* lawsuit.

Data Sources

One source of data will be derived from semi-structured interviews. The use of interviews will allow the researcher to “enter into the other person’s perspective.

Qualitative interviewing begins with the assumption that the perspective of others is meaningful, knowable, and able to be made explicit” (Patton, 2002, p. 38). Analysis of

interview transcripts will help the researcher develop a holistic understanding of the role of litigation in public accountability and how it can lead to reform. In addition, semi-structured interviews will allow the researcher some control over the areas to be explored while providing the participant the flexibility to direct the depth to which topic areas are addressed. The data collected from both the interviews and examination of key documents will be used to create a textual description of the “thoughts, feelings, examples, ideas, and situations that portray what comprises an experience” (Moustakas, 1994, p. 47). The following documents will be used for the program evaluation and to answer the study research questions:

1. Charlie and Nadine H. v. McGreevey Lawsuit Settlement Agreement (2003) and Modified Agreement (2006).
2. Panel monitoring reports from the original (2003) and the modified settlement agreement (2006): New Jersey Child Welfare Panel: Report on Immediate Actions: Required Under the Settlement of Child Welfare Class Action Litigation. This includes: (a) Period 1 Monitoring Report, July – December, 2003, published February 4, 2004; (b) Period 2 Monitoring Report, January – June, 2006, published October 11, 2006.
3. A new Beginning: The Future of Child Welfare Reform in New Jersey: Executive Summary of the Child Welfare Reform Plan published June 9, 2004.
4. Children’s Bureau Child and Family Services Reviews (CSFRs) key finding reports for Round 1 (2000-2004) and Round 2 (begun Spring of 2007). Conducted by the Children’s Bureau within the U.S. Department of Health and Human Services (HHS), The CSFRs are designed to help agencies improve safety, permanency and well-being

outcomes for children and families who receive services through the New Jersey child welfare system. The CFSRs are used to monitor conformity with the requirements of title IV-B of the Social Security Act. The reviews comprise two phases: (a) the statewide assessment during which the state analyzes its child welfare data and practice; (b) the onsite review, during which Federal and state teams examine outcomes for children and families by conducting case record reviews and case-related interviews, and assess state systemic issues through stakeholder interviews. These reports will provide data related to agency conformity with Federal child welfare requirements and determining what actually happened to children and families receiving child welfare services. CFSRs with the use of Program Improvement Plans (PIP) provide a focus on continuous improvement. CFSRs measure seven outcomes and seven systemic factors.

5. Child Welfare Transition Policy Group Final Report Prepared for Governor-Elect Jon S. Corzine (2006).
6. New Jersey Child Welfare Reform: Focusing on the Fundamentals (New Jersey Office of Children's Services: Department of Human Services (2006).
7. New Jersey Program Improvement Plans (PIP).
8. New Jersey Child and Family Services Review: Statewide Assessment Reports.

These reports will provide data related to the seven systemic factors and seven outcome measures that include:

Systemic Factors

- A. Statewide information systems
- B. Case review systems

- C. Quality assurance systems
- D. Staff and provider training
- E. Service array and resource development
- F. Agency responsiveness to community
- G. Foster and adoptive home licensing, approval, recruitment, and retention

Outcome Measures

- A. Safety outcome 1: Children are, first and foremost, protected from abuse and neglect.
 - B. Safety outcome 2: Children are safely maintained in their homes whenever possible and appropriate.
 - C. Permanency Outcome 1: Children have permanency and stability in their living situations.
 - D. Permanency Outcome 2: The continuity of family relationship and connections is preserved for children.
 - E. Well-Being Outcome 1: Families have enhanced capacity to provide for their children's needs.
 - F. Well-Being Outcome 2: Children receive appropriate services to meet their education needs.
 - G. Well-Being Outcome 3: Children receive adequate services to meet their physical and mental health needs.
9. Adoption and Foster Care Analysis and Reporting System (AFCARS): To determine changes in the demands on the New Jersey child welfare agency system and the services it must provide.

10. New Jersey Task Force on Child Abuse and Neglect Citizen Review Panel Annual Reports.
11. New Jersey Unified Response to the Citizen Review Panels Recommendations.
12. New Jersey Child Fatality and Near Fatality Review Board Annual Reports.
13. New Jersey Unified Response to the Child Fatality and Near Fatality Review Board and New Jersey Child Welfare Citizen Review Panel.
14. New Jersey Child Welfare Panel: Briefing on Priority Issues in Child Welfare Reform, published February 2006.
15. Progress of the New Jersey Department of Children and Families Monitoring Report for Charlie and Nadine H. v. Corzine.
 - A. Progress Report: Current State of the Department of Children and Families (DCF): Leadership, Budget, and Demographics of Children Served by DCF.
 - B. Building a High Quality Workforce and Management Infrastructure: (a) caseloads, (b) training, (c) Statewide Central Registry and Institutional Abuse Investigations Unit (IAIU), and (d) accountability through the production and use of accurate data.
 - C. Changing Practice to Support Children and Families: (a) implementing the New Case Practice Model, (b) concurrent planning practices, (c) increasing services to families, and (d) permanency planning and adoption: permanency for older youth.
 - D. Appropriate placements and Services for Children: (a) resource families, (b) shelters, (c) services and supports for youth.

July 2006 – December 31, 2006: Published February 26, 2007

January 1 – June 30, 2007: Published October 22, 2007

July 1 – December 31, 2007: Published April 16, 2008

January 1-June 30, 2008: Published October 30, 2008

16. The New Jersey Central State Registry Annual Reports that include data related to:
 - A. Data on central hotline functioning: (a) volume and sources of calls to the SCR, (b) SCR Call Flow, (c) Operations, (d) Quality Assurance, and (e) SCR Workload: Call type and duration.
 - B. Findings related to: (a) decision-making, (b) information collection and documentation, (c) timelines, (d) professionalism and competence of SCR screeners, and (e) the effect of screener certification.
 - C. Factors affecting performance: (a) strength of the SCR, (b) opportunities for improvement.
 - D. Recommendations: (a) policy, (b) SCR operations, and (c) staff development.
17. New Jersey Legislative Budget Book: FY2003-FY2009.
18. New Jersey DYFS Staffing and Outcome Review Panel: Citizen Review Panel Annual Reports.

Research Participants

The study included interviews with seven individuals representing, Children's Rights, the monitoring panel, the worker's union, local newspaper, and former administrators of DCF and DYFS involved in the 2003 settlement agreement and the 2006 modified settlement agreement pertaining to the Charlie and Nadine H. v. McGreevey lawsuit file in 1999. These individuals were purposefully selected because

they have a level of familiarity and insight into the role of litigation on reform and are able to provide a rich description of how litigation has facilitated or hampered the reform efforts of the New Jersey child welfare system (Lincoln & Guba, 1985). Unfortunately, no current administrators of DCF or DYFS were available for interviews. The seven individuals who were interviewed include:

1. Steven D. Cohen, Director of the Casey Strategic Consulting Group at the Annie E. Casey Foundation in Baltimore, MD.
2. Judith Meltzer, Deputy Director for the Center for the Study of Social Policy in Washington, D. C.
3. Beatriz Otero, Executive Director of the Calvary Bilingual Multicultural Learning Center in Washington, D.C. (*A New Beginning*, 2004).
4. James M. Davey: Former DHS Commissioner.
5. Susan Lambiase, Esq.: Attorney for Children's Rights advocacy group who served as counsel for the plaintiffs in the Charlie and Nadine H. v. McGreevey lawsuit.
6. Cecilia Zalkind, Esq.: Executive Director, Association for Children in New Jersey advocacy group.
7. Susan Livio: Reporter who published several investigative reports about the New Jersey child welfare system.

Semi-Structured Interviews

Kvale (1996) provides a seven stage framework for designing and conducting interviews. The first stage involves thematizing. By answering the questions of "why" and "what," the researcher is able to define the purpose of the study and the topics to be

investigated. In the second stage, the researcher develops the overall design of the study and how the data gathered will be analyzed and reported. The actual interviewing is planned in the third stage. At this point, the researcher must decide if he or she will conduct the interview or another individual will be involved (Patton, 1987). It must be decided if the interviews will take place face-to-face, by phone, or through satellite or computer aided media. It must also be decided if the interview will be recorded or if the researcher will rely on detailed notes taken during the interview. During the fourth stage, transcripts of the interview or detailed notes will be typed (Kvale, 1996; Patton, 1990). Analysis of the data collected is the fifth stage. During this process, the data is condensed and categorized into meaningful interpretations (Patton, 1990). The process of verifying and determining reliability or consistency of the findings takes place in the sixth stage and involves assessing the validity and generalizability of the findings. One method of determining the validity and reliability of the findings is to check the results of the analysis with the interview participants to see if the researcher captured the meanings the participants intended to convey (Guba & Lincoln, 1989). The validity and reliability of the results is also established by assessing the confirmability, dependability, credibility, and transferability of the data (Guba & Lincoln, 1989). The seventh and final stage involves reporting the findings. According to Sewell (n.d.), effective reporting of the findings should: “a) be in a form that meets some accepted scientific criteria, b) meet ethical standards such as confidentiality and respect, and c) be readable and usable for its intended audiences” (*Design and Development* section, para. 10).

There are advantages to using interviews over other data collection methods. Interviewing can be undertaken for several different purposes. In research, the interview

method is often used when the goal is to evaluate or gain a deeper understanding of an issue (Kvale, 1996). Conducting interviews provide the researcher with the flexibility of allowing participants to discuss those issues that are most important to them and to make the researcher aware of factors that might not have been considered. This flexibility includes allowing participants to answer complex questions and issues and the researcher to probe areas brought up by the participant. The interviewer has the flexibility to use his or her knowledge, expertise, and interpersonal skills to explore interesting or unexpected ideas or themes raised by participants. The use of interviews also provide a high level of credibility and face validity because individuals are able to use their own words rather than being restricted to predetermined categories. In addition, the interviewer is able to probe for more details if necessary to ensure that participants are interpreting questions the way the researcher intended (Sewell, n.d., *Advantages to Using Qualitative Interviewing* section, para. 1).

However, there are also disadvantages to using the interview method. First, interpersonal dynamics between the interviewer and the participant may affect how participant's engage in the interview process and their responses to questions. Interviews often are more costly, more time consuming, and require greater skill and experience in the use of this method than other data collection methods. In addition, data from interviews are more subjective than quantitative data collection methods and therefore there is a greater chance of introducing bias into the data analysis process and conclusions drawn from the information gathered (Sewell, n.d., *Disadvantages of Using Qualitative Interviewing* section). Furthermore, the interview can be unreliable because of the non-standardized nature of the procedure. Different participants, while being asked

the same set of open-ended questions will undoubtedly be asked different follow-up questions by the researcher. Finally, while it is unlikely, the validity of the data can be compromised if the participant is untruthful in his or her responses or imperfect in his or her recall of events.

Interview Data Collection

Key members of the expert panel as well as current and former members of the New Jersey child welfare agency were contacted by the researcher and asked to participate in the study. Participation will be voluntary and interviews will be conducted in a setting convenient to the participant. Each interview will last between one and two hours. When data is gathered from open-ended questions asked in a structured or semi-structured format “the task for the qualitative evaluator is to provide a framework within which people can respond in a way that represents accurately and thoroughly their point of view” (Patton, 1987 as cited in Sewell, n.d., *What is Qualitative Interviewing?* section, para. 2).

The data collection process involved a reflective process based, primarily on perceptions as the primary source of information and knowledge. With the purpose of developing a rich description of how litigation has facilitated or hampered reform, an iterative process of analysis and reflection will be used to develop categories and themes through the use of strategies that include horizontalization, clustering, and thematization. To facilitate the interview process a set of open-ended questions will be used to guide the discussion and to elicit thoughts and feelings about how litigation has served efforts to bring awareness, accountability, and reform to the New Jersey child welfare system. The

researcher will keep in mind that an important component of an interview is the ability to adapt the questioning process to match the direction and the context of the inquiry so that a deeper level of understanding and richer picture of the topic of inquiry can be developed (Rubin & Rubin, 1995). With the permission of participants, interviews will be tape recorded, transcribed, and re-checked by the researcher against the original recordings to ensure accuracy of the transcription.

Interview Data Analysis

Moustakas (1994) provided guidelines on how to analyze interview data. The analysis process will involve reading through the transcripts of the interviews several times and coding expression relevant to the research topic and questions. The first step involves a process of horizontalization in which all expressions that are relevant to the topic discussed in the interviews are listed. During the second step, these expressions will be examined for mutual exclusivity. Those expressions necessary for understanding how litigation facilitates or hinders reform will be retained. Expressions that overlap, are vague or repetitive will be eliminated from further analysis during a process of reduction and elimination. The third step will involve clustering invariant constituents of the experiences described by the participants in a process called clustering and thematizing/contextualizing. In this process the researcher looks for patterns in the narrative of the interviews that are related and can be grouped as a cluster theme. During the fourth step, an individual textual description will be developed using verbatim examples pulled from the transcripts that represent the experiences, ideas, feelings, and perceptions of the interview participants. Finally, the researcher will check for

compatibility of the themes developed from the interview transcripts in a process of validation of invariant constituents and themes. These themes will be used to guide the researcher in developing a rich picture of the issues as they relate to the research topic and questions.

An important component of the iterative process is for the researcher to work diligently to identify and acknowledge personal biases that might influence data analysis. The researcher will keep a personal diary to describe the decision process and the criterion used in the reflective analysis of the data. Information will be used as a means of checking conclusions to determine if personal bias has unduly skewed interpretations. Finally, ideas, concepts, and perceptions that are confirmed by at least two interview participants and negated by none will be considered reliable (Miles & Huberman, 1994).

Program Evaluation Research Methodology

Program evaluations are instrumental to policymakers, administrators, and others interested in assessing the quality of a publicly funded and state administered social services organization. The primary purpose of a program evaluation is to determine the overall quality of a program, identify areas for improvement, or both (Davidson, 2005). Program evaluations provide policy-makers and public administrators with information necessary to make informed decisions related to the ability of the public agency to meet its mission, goals, and standards of best practice.

Conducting a thorough program evaluation involves identifying: (1) what has happened, (2) impact of the program activities that were expected or unexpected, and (3) what links exist between a program and its observed impacts (Balbach, 1999). In

addition, Gall et al. (2003) pointed out that program evaluations increasingly are being used because public programs that receive government funding are required to submit formal evaluations. Program evaluations are used as an accountability tool to determine the extent a program is being effectively administered as mandated or the extent that it is meeting agency mission, goals, and standards of practice (McNamara, 2008). McNamara expressed that a program evaluation was helpful for the following reasons:

1. Understand, verify or increase the impact of products or services on customers or clients.
2. Improve delivery mechanisms to be more efficient and less costly.
3. Evaluations can verify if the program is really running as originally planned.
4. Facilitate management's really thinking about what their program is all about, including its goals, how it meets its goals and how it will know if it has met its goals or not.
5. Produce data or verify results that can be used for public relations and promoting services in the community.
6. Produce valid comparisons between programs to decide which should be retained, e.g., in the face of pending budget cuts.
7. Fully examine and describe effective programs for duplication elsewhere. (pp. 3-4)

Because the purpose of the study is to make a determination of the effectiveness of class-action litigation brought against the agency, the program evaluation of the New Jersey Child Welfare agency will be summative (Gall et al., 2003). Sanders (1994) recommends using a summative evaluation when the "evaluation is designed to present conclusions about the merit or worth of an object and recommendations about whether it should be retained, altered, or eliminated" (p. 209).

Program Logic Model - The Program Logic Model will provide a framework for conducting a summative program evaluation of New Jersey Division of Youth and Family Services following implementation of reform plans developed as a requirement of the original 2003 settlement agreement and the 2006 modified settlement agreement. Yin (2003) recommended the Program Logic Model when evaluating a program that involves a complex chain of events over time. The logic model process is an effective tool when the purpose of the study is to evaluate the extent that a program achieves its vision, mission, and organizational goals. Central to the logic model is answering the following key questions: “What is the program or organization trying to achieve? How will its effectiveness be determined? How is it actually doing?” (Koskinen, 1997 as cited in McLaughlin & Jordan, 1998, *Problem* section). In addition, the program evaluation should yield results that stakeholders find useful and that address state and federal accountability requirements (McLaughlin & Jordan, 1998, *Problem* section).

Wholey (1983, 1987) outlined seven basic areas the researcher should address when conducting a program evaluation using the program logic model: resources, outputs, activities, customers reached, and short, intermediate, and long term outcomes. Resources include human, material, and financial “inputs” into the organizational system. Inputs include information from internal and external stakeholders and those who receive services. The outputs of a program are the activities and services directly received by its users. Those who are served by the program are explicitly at the center of the chain of the logic model. Providing a perspective from those who directly receive services from the program helps stakeholders and leaders’ thinking and outlining, “what leads to what, and what population groups the program intends to serve” (McLaughlin & Jordan, 1998,

Model section). Finally, short-, intermediate-, and long-term outcomes of a program are the benefits resulting from its outputs and activities. While short-term outcomes are changes and benefits resulting directly from the program's outputs, intermediate-term outcomes are realized through the application of the short-term outcomes. The long-term outcomes are the benefits accrued through the intermediate outcomes and lasting affects the program (McLaughlin & Jordan, 1998, *Model* section). Finally, the program evaluation must include the identification and description of key external contextual factors than can influence negatively or positively the program's success. "It is important to examine the external conditions under which a program is implemented and how those conditions affect outcomes" (*Model* section).

Program Evaluation Data Collection

The program evaluation of the New Jersey Division of Youth and Family Services will involve the use of qualitative data collection and analysis procedures. The quantitative data involves the collection and analysis of quantitative information related to measurements of key elements of the programs under the umbrella of the New Jersey DYFS. Qualitative data involves the subjective evaluation of information gathered from documents, reports, websites, and other text-based materials that are available in the public domain or through access to information obtained by gatekeepers (Lincoln & Guba, 1985). When information is collected through gatekeepers, the researcher's action must not undermine that trust by using the information unethically. The researcher must be flexible in handling barriers and recognizing opportunities to gain key data that will

lead to a richer picture and deeper understanding of the topic being investigated (Rubin & Rubin, 1995).

The data collection process will involve maintaining a document summary of each document examined, noting the document type, its uses, summary of its contents and ideas about other documents that should be examined for inclusion in the study (Gall et al., 1996). Both primary and secondary sources will be used in conducting the program of the New Jersey Division of Youth and Family Services. Primary sources of data will be obtained from information readily available to the researcher.

Data Analysis Related to the Study Research Questions

Below is a summary of the data sources to be used to answer each of the study research questions.

1. Did the Litigation Strategy enhance the capacity for DYFS to meet the organizational and performance goals set by the oversight panel?

The question will be answered using data gathered through in-depth interviews with members of the oversight panel and key leaders of the DHS, DCF, and DYFS, both past and present. The Charlie and Nadine H. v. McGreevey Settlement agreements from 2003 and 2006 will be used as a guide in conducting a program review of the DYFS related to the research question. This will include the use of reports by the expert panel, state, and private agency monitoring reports and Children's Bureau Child and Family Services Reviews (CSFRs). This question will be operationalized by the following subquestions.

- 1a. To what extent did the litigation and oversight strategy result in DYFS making significant progress toward meeting the 11 performance goals identified by the oversight panel?

The corresponding sub-questions will be answered primarily using data gathered from the following resources.

- (a) Charlie and Nadine H. v. McGreevey Lawsuit Settlement Agreement (2003) and Modified Agreement (2006).

- (b) Children's Bureau Child and Family Services Reviews (CSFRs) key finding reports for Round 1 (2000-2004) and Round 2 (begun spring of 2007).

- (c) New Jersey Child and Family Services Review: Statewide Assessment Reports.

These reports will provide data related to the seven systemic factors and seven outcome measures.

- (d) New Jersey Task Force on Child Abuse and Neglect Citizen Review Panel Annual Reports.

- (e) Progress of the New Jersey Department of Children and Families Monitoring Report for Charlie and Nadine H. v. Corzine for the following reporting periods:

(a) July 2006 – December 31, 2006: Published February 26, 2007; (b) January 1 – June 30, 2007: Published October 22, 2007; (c) July 1 – December 31, 2007: Published April 16, 2008; and (d) January 1-June 30, 2008: Published October 30, 2008.

- (f) New Jersey Child Welfare Panel: Report on Immediate Actions that was required under the settlement of the child welfare class action litigation that includes the following reports: (a) Period 1 monitoring report for the period from July-

December of 2003 published February 4, 2004 and (b) Period 2 monitoring report for the period from January-June of 2006 published October 11, 2006.

(g) Adoption and Foster Care Analysis and Reporting Systems (AFCARS) reports.

1b. To what extent did the litigation strategy enhance the system capacities of DYFS?

System capacity will be measured by improvements in training and management and in the demonstrated capacity of DFS administrators. The question will be answered using data gathered through in-depth interviews with members of the oversight panel and key leaders of the DHS, DCF, and DYFS, both past and present. The Charlie and Nadine H. v. McGreevey Settlement agreements from 2003 and 2006 will be used as a guide in conducting a program review of the DYFS related to the research question. This will include the use of reports by the expert panel, state, and private agency monitoring reports, Children's Bureau Child and Family Services Reviews (CSFRs), and New Jersey legislative budgets indicating policy and funding allocations in response to the settlement agreements. Data will be gathered primarily from the following documents:

- (a) New Jersey DYFS Staffing and Outcome Review Panel: Citizen Review Panel Annual Reports.
- (b) Charlie and Nadine H. v. McGreevey Lawsuit Settlement Agreement (2003) and Modified Agreement (2006).
- (c). Child Welfare Transition Policy Group Final Report Prepared for Governor-Elect Jon S. Corzine (2006)

- (d) A New Beginning: The Future of Child Welfare Reform in New Jersey:
Executive Summary of the Child Welfare Reform Plan published June 9,
2004.
- (e) Progress of the New Jersey Department of Children and Families Monitoring
Report for Charlie and Nadine H. v. Corzine.
- (f) Children's Bureau Child and Family Services Reviews (CSFRs) key finding
reports for Round 1 (2000-2004) and Round 2 (begun spring of 2007).
- (g) New Jersey Legislative Budget Book: FY2003-FY2009.
- (h) New Jersey Child Welfare Panel: Briefing on Priority Issues in Child Welfare
Reform, published February 2006.

2. Did the litigation strategy lead to greater accountability of DYFS to its statutory
mission of protecting children and serving families?

The question will be answered using data gathered through in-depth interviews with members of the oversight panel and key leaders of the DHS, DCF, and DYFS, both past and present as well as data gathered primarily from the following documents:

- (a) Children's Bureau Child and Family Services Reviews (CSFRs) key finding
reports for Round 1 (2000-2004) and Round 2 (begun spring of 2007).
- (b) Progress of the New Jersey Department of Children and Families Monitoring
Report for Charlie and Nadine H. v. Corzine.

Assessing Reliability and Validity

The findings of any research study is strengthened or weakened by the extent that reliability and validity have been established. Reliability and validity is established by

addressing decisions made in terms of the inquiry procedures, processes, and evidence used (Lincoln & Guba, 1985). Reliability refers to the consistency of the findings while validity refers to the extent that the research design actually assessed what the researcher intended as well as the transferability or generalizability of the findings.

Because the case study involves the use of several data sources, a triangulated research strategy will be used (Feagin, Orum, & Sjoberg, 1991; Yin, 1994). Triangulation is a method of verifying or checking the accuracy. Triangulation can be accomplished by using more than one method of gathering data during the interview process. For example, the interview can be audiotape and videotape recorded at the same time with the interviewer also taking detailed notes. Triangulation can also be accomplished by cross-checking the interpretation of the interview with the participant (Wolcott, 1988).

In order to increase the reliability and validity of the findings of this collective case study, the data will be triangulated using several different sources and forms of data, both quantitative (e.g., NCANDS statistical reports) and qualitative (e.g. program evaluations, memos, newsletters, reports, etc.). According to Creswell (2005), the purpose and rationale for triangulating data is to:

Simultaneously collect both quantitative and qualitative data, merge the data, and use the results to understand a research problem. The rationale for this design is that one data collection form supplies strengths to offset the weaknesses for the other form. For example, quantitative scores on an instrument provide strengths to offset the weaknesses of qualitative documents. (p. 514)

Triangulation is accomplished in part by reaching a level of saturation in which no new information is yielded from the different data sources (Denzin, 1984). However, triangulation can be difficult or impossible when the data from different sources cannot be translated from one form into another for comparison purposes (Creswell, 2005).

The reliability or consistency of the findings will be established through the processes of dependability and confirmability of the data. In qualitative research, the dependability of the data is strengthened by noting, tracking and making available for inspection these changes and shifts. Dependability will be established by providing an audit trail detailing data collection and analysis (Bloomberg & Volpe, 2008). According to Miles and Huberman (1994), credibility of the data is strengthened by recording the interviews, transcribing these recordings, maintaining an audit trail through notes generated throughout the analysis process, and making lists of the categories and questions used by the researcher during the analysis of the data. In addition, interviews are active and changing as the interviewer and the participant engage in interactive communication. “The resulting changes and shifts in the interview process, while considered inconsistencies and threats to the reliability of the data in the context of quantitative research, are actually considered indicators of a successful inquiry process” (McCann, 2006, p. 131).

Confirmability will be established by demonstrating what data was used to make interpretations and draw conclusions (Lincoln & Guba, 1985). The confirmability of the data is important for determining the accuracy of the data. Establishing the “confirmability involves linking the interpretations, assertions, and conclusion drawn from the analysis to the data in readily discernible ways” (McCann, 2006, p. 131).

The validity of the interpretations and conclusions will be based on the source and types of documents used (Polkinghorne, 2007). Based on recommendations by Lincoln and Guba (1985), the internal validity or credibility of the conclusions drawn will be strengthened by investing sufficient time in the interview process to gain an

understanding of the person being interviewed and to build trust during this interactive communication. The credibility of the results will also include testing for misinformation and distortions by checking conclusions drawn with interview participants.

The external validity or transferability of the findings of the present study to other contexts will be strengthened by creating a thick description of the topic under investigation. This will facilitate the ability of others to make decisions about the applicability or generalizability of the findings from this study to other settings (Lincoln & Guba, 1985).

Delimitation and Limitations

Delimitations - Merriam (1998) “concluded that the single most defining characteristic of case study research lies in delimiting the object of the study” (p. 27). Factors used to narrow the study and establish the boundary of this case includes:

1. The study will be confined to the New Jersey Child Welfare Agency.
2. The study will be bounded by the timeframe from 1997 to 2008, the time during which significant changes in child welfare legislation was enacted and several class-action lawsuits were filed against the agency.
3. Primary documents will be used as the data sources and will include official publicly published reports, court proceedings, legislation, and other information to be identified.

Limitations - In dealing with qualitative information, the researcher is confronted with certain limitations. The beliefs and actions of policy-makers, administrators, workers, and clients are inferred from both formal and informal accounts. During the

evaluation, coding, and analysis of the data, the researcher has opportunities to introduce his own ideas, thoughts, and viewpoints into the conclusions drawn and the results reported. An additional limitation to the present study is that some of the information is historical chronicling and reporting on events that have happened in the past, opening the possibility of introducing bias (Atkinson, 1998). To reduce such influence, Crabtree and Miller (1992) recommend that the researcher bracket his own views or preconceptions during the analysis process. According to Creswell (1998), the purpose of bracketing is to suspend one's own presuppositions, ideas, opinions, etc. enabling the researcher to set aside making judgments until all the evidence have been inspected.

In the present study the bracketing process will begin with the researcher identifying his biases and presuppositions about New Jersey and the New Jersey child welfare system that might be brought in the inquiry and reporting process. Prior to the interview process, the researcher will engage in self-reflection and journalize presuppositions and biases about the topic that might enter into and influence the analysis of the data. A journal and audit trail will be maintained by tracking personal reflections and methodological decision made during the data collection and analysis phases of the study (Creswell, 1998). Finally, no attempt will be made to contact and follow-up with those individuals who decline to participate in the study. This may allow bias to enter the data and influence the research findings and generalizability of the results.

Ethical Considerations

When conducting a case study or program evaluation that deals with living individuals, a primary concern of the researcher is to minimize the potential harm to

those involved. The harm can be minimized by developing an ethical research design that is intellectually coherent and compelling (Bloomberg & Volpe, 2008). “Ethical issues can indeed arise in all phases of the research process: data collection, data analysis and interpretation, and dissemination of the research findings” (p. 76). The research will be conducted with guidelines in place to protect against any harm resulting from the data collection, analysis, and reporting of results.

CHAPTER FIVE – ANALYSIS AND FINDINGS

Summary of Analysis Results

On August 4, 1999, the Charlie and Nadine H. v. Corzine lawsuit was filed against the New Jersey child welfare system. Serious problems in the foster care systems that the plaintiffs sought to remedy included:

1. Years of poor management and consistent underfunding.
2. Insufficient placements for children in the foster care system.
3. Teenagers placed in unsafe emergency care facilities for too long.
4. Inappropriate placement of children with psychiatric and medical needs that resulted in the exacerbation of their conditions.
5. Poorly trained, supported, and supervised DYFS caseworkers.
6. No accurate or timely accountability system in place.
7. Incompatible and obsolete computer system.

Results of Analysis of In-Depth Interviews

The study included interviews with seven individuals representing, Children's Rights, the monitoring panel, the worker's union, local newspaper, and former administrators of DCF and DYFS involved in the 2003 settlement agreement and the 2006 modified settlement agreement pertaining to the Charlie and Nadine H. v. McGreevey lawsuit file in 1999. These individuals were purposefully selected because they have a level of familiarity and insight into the role of litigation on reform and are able to provide a rich description of how litigation has facilitated or hampered the reform

efforts of the New Jersey child welfare system (Lincoln & Guba, 1985). Unfortunately, no current administrators of DCF or DYFS were available for interviews. The seven individuals who were interviewed include:

To protect the anonymity and confidentiality of those interviewed, no direct quotes or identifying information is provided in the results. Information gathered from the interviews are presented in aggregate form. Analysis of the interviews resulted in the identification of four themes related to the reform of the New Jersey DYFS during the period that encompasses the litigation brought against the agency in 1999 and after the final monitoring report was submitted in June 2010.

The Death of Faheem Williams - The death of Faheem Williams created a sense of urgency for reform of the system. This was a crucial turning point for DYFS and the administration of Governor McGreevey. Governor McGreevey felt there was a moral responsibility to reform DYFS and wanted the lawsuit settled so that work could begin on improving the system. The case of the Jackson brothers who were found starving also created urgency to reform the system.

The 2003 Settlement Agreement Was Too Ambitious - All those interviewed stated that the changes outlined in the original 2003 agreement were too extensive and rigid to be achieved within the original timeframe outlined. On the whole the requirements of the agreement were not realistically defined nor action oriented. The 2006 MSA was more realistic and had flexibility incorporated into it in terms of the outcomes. Another problem during the period of the 2003 agreement was that there was often an adversarial relationship between the DYFS administrators and Children's Rights which hampered the ability to move forward with some of the reforms. There was also

difficulty getting many in the NJ legislature to support the changes and the financial support needed to implement them. The political and administrative leaders did not know how to implement the plan in workable stages and tried to change too much too quickly. This set DYFS up for failure. The 2006 MSA had greater flexibility built into it and the timeframe for goal achievement was extended over a four year period from 2006 to 2010.

Insufficient Infrastructure and Resources to Support Reform – All those interviewed stated that it is difficult to change a large bureaucratic structure such as DYFS. The lawsuit created a condition of immediate crisis that provided the power and impetus for change to the bureaucratic structure to begin. The most significant reason for the failure of the first agreement was that the state did not make sure that an infrastructure that could support the reforms was in place before trying to make system wide changes. There needed to be a strengthening of management and leadership and a lessening of cultural resistance. Management had instigated so many directives that could not be accomplished in the time frame given that the workforce became increasingly cynical and resistant to change. The cultural change at the field level was the most difficult. Training of leaders increased the ability of the reform plan to succeed because there were more experienced managers and leaders to put the plan in place and to provide direction and resources for the workforce to help achieve the goals outlined in the plan.

Shifting of Accountability From The State To The Court - All the interviewees mentioned that the political infrastructure had to balance competing issues especially in terms of the structure of the child welfare agency and budget allocations. In addition the lawsuit made DYFS accountable to the settlement agreement and the courts rather than to the state. There was also the problem of several changes in the New Jersey political

stakeholders. The lawsuit was brought under the Whitman administration. While Gov. Whitman had a Blue Ribbon panel investigate the problems with the state child welfare agency and make recommendations, nothing was really done once the panel's findings were filed. The Blue Ribbon panel was created by Gov. Whitman in 1997 filed a report listing 382 recommendations for reform. The state responded with a plan that was ineffective in reforming the system and improve the services provided by the child welfare agency. When DYFS failed to implement the Blue Ribbon Panel recommendations, Children's Rights filed the Charlie and Nadine H. lawsuit in 1999 (Koralek et al., 2001).

There was greater support for change from the McGreevey administration that acknowledged the problems with the system and attempted to support change. However, there was resistance from the legislature to allocate sufficient funding to implement change. Though the original 2003 settlement agreement required the state to provide immediate funding, it was not until the Corzine administration that DYFS received considerable and consistent support from the governor's office and the state legislature. Both Corzine's agreement that DYFS needed to be under the auspices of a cabinet level department and the 2006 MSA helped to increase political support for systemic reform of DYFS.

Results of Analysis for Each Research Question

All research questions and sub-questions were answered using data from in-depth interviews with members of the monitoring panel, Children's Rights litigators, the worker's union, and past leaders of the DHS, DCF, and DYFS compared against the

provisions of the 2003 and the 2006 modified agreement of the Charlie and Nadine H. v. McGreevey class action lawsuit and official documents related to the 2006 MSA.

1. Did the litigation strategy enhance the capacity for DFYS to meet the organizational and performance goals set by the oversight panel? Answering this question involved assessing changes in the internal structure and performance of the agency in relationship to the panel's mandates.
2. Did the litigation strategy lead to greater accountability of DFYS to its statutory mission of protecting children and serving families?

These question will be operationalized by the following subquestions.

- 1a. To what extent did the litigation and oversight strategy result in DYFS making significant progress toward meeting the 11 performance goals identified by the oversight panel?

Based on the interview data, the willingness of the Children's Rights organization to keep the pressure on the New Jersey system by going back to court when they felt NJ was in contempt of the settlement agreement helped to maintain pressure to work to achieve the desired reforms. The use of the monitoring panel and the requirement of regular progress reports have also been helpful. In addition, the mandates of the lawsuit settlement agreement resulted in enforced caseload caps and mandatory training for new workers and supervisors. This has provided an opportunity for DYFS to focus on reform rather than working from a "crisis mentality" dealing with critical situations as they arose.

The intent on the settlement agreements was to create a structure that reduced the number of critical incidences that often resulted from lack of resources and poor

organizational structure and leadership that was endemic in the system prior to the lawsuit. In the past four years in which DYFS has been monitored by the court appointed panel, DYFS has focused on complying with the federal monitor's checklist for reform. In 2010, the panel was disbanded and a single monitor was placed in charge of keeping track of DYFS's reform efforts. The reforms required by the 2006 MSA were graduated and it is only in 2010 that the monitor has begun measuring the effect of the reform on how DYFS works with and re-unites families. According to DYFS's mission statement, keeping families together, unless safety dictates permanent removal from the home, is the most important function of DYFS.

Finally, interviewees stated that another important step to bringing accountability to the New Jersey child welfare system was the creation of a separate children's department because it helped to identify child related issues that needed immediate attention and provided more workers and supervisors to the department. The ability to achieve reform has been hampered to some extent by the focus of DCF and DYFS to meeting, in a narrow sense, the 2006 MSA agreements rather than on sustainable reforms that are not tied specifically to any court requirement. Accountability is tied to and reported based on the specific agreements so may miss important reporting on other important outcomes related to child welfare not specified in the 2006 MSA. It will take several more years to determine if the litigation strategy has resulted in long-term sustained reform.

1.a.1. Decreased length of time in care for children with the goals of reunification To decrease the length of time that children were in state custody who had reunification as their goal, part of the 2006 MSA was to permit the utilization of flexible

funds for birth families involved with DYFS to better promote family preservation and reunification. DYFS was permitted to increase the amount of expenditures that could be made without obtaining consent for an exception to the rule from \$1,500 annually to \$8,635 annually. In addition, payments made on behalf of birth parents were extended from a period of 3 months to 12 months. This requirement of the MSA was fulfilled during 2007.

By March 6, 2009, 37 cases who had entered care between 7/1/2008 and 12/31/2008 had exited care with 31 (92%) of these cases involving reunification. No information was provided in the monitoring reports that break down the percentage of permanency placements that involved reunification with family. The rates of permanency placements were reported in aggregate form and included reunification with the family, kinship placement, adoption, or other placements.

1.a.2. Decreased length of time in care for children with the goal of adoption -

During the first monitoring period between July and December 2007, DYFS had developed and begun implementing an adoption tracking system, adoption impact teams, and permanency practices that included five and ten month reviews and transfer of cases to an adoption worker within 5 days of the court approving the permanency goal to adoption. DYFS had successfully identified and trained adoption workers in local offices and by the end of 2007 90% of offices had average caseloads of 18 or fewer children for their adoption staff and had finalized 1,540 adoptions, 154 adoptions above the benchmark of 1,400 adoptions. By the end of 2008, 95% of offices had average caseloads for adoption staff of 15 or fewer children. In addition, the state was able to designate one resource family recruiter for each area office to recruit for individual adoptable children.

However, since the end of 2008, DYFS has had difficulty in completing five and ten month reviews and transferring cases to an adoption worker within five days. During 2008, DYFS achieved a 95% five month and 97% ten month review with 55% of cases transferred to an adoption worker within five days. However, by 2009, this had dropped to an 82% five month and 84% ten month review with only 33% transferred to an adoption worker within five days of goal change (see Table 7 in the Appendix).

By June of 2008, 35% of children legally free for adoption were discharged to a final adoption in less than 12 months from the date of being legally free (see Table 11 in the Appendix). This had risen to 60% by the end of 2008. The length of time children had spent in care prior to adoption was not been determined for 2009 but so far DYFS has met its targets. By the end of 2009, 44% of children had been discharged from foster care to adoption within 30 months from removal from the home. This is close to the target of 45% for 2009. However, DYFS has not been able to meet its target of discharging children prior to their 21st birthday, who on the first day of 2009, had been in foster care for 25 months or longer. Discharging older children to permanency represents one of the challenges of foster care.

1.a.3. Increased proportion of siblings in foster care being placed together -

Between 2004 and 2009, the percentage of sibling groups placed together had increased from 63% to 74.1% for 2-3 siblings and from 26.0% to 30.5% for 4 or more siblings. By June of 2007, 63% of 2 or 3 siblings (65% target) and 30% of 4 or more siblings (30% target) entering custody were placed together within 30 days, fulfilling target goals. By the end of 2009, the 2009 targets were reached for both placement of 2 or 3 siblings (74%) and 4 or more siblings (31%) (see Table 11 in the Appendix). This data

indicate that DYFS has increased the proportion of siblings in foster care being placed together within 30 or 60 days of entering care.

1.a.4. Increased proportion of children in foster care appropriately placed with

relatives - As of March 31, 2010, 34% (2,677) children were in kinship placements.

Based on information derived from the DCF DYFS website, as of 12/31/2009 out of a total of 7,900 children in out-of-home care 2,732 (35%) were placed with relatives. This was an increase from 28% reported for 2007. As of March 3, 2010 2,655 children in foster care were discharged from care to permanency with a relative. This was up from 2,542 in 2008 and 2,515 in 2007. No information was provided in any reports or on the DCF DYFS website indicating the number or percentage of children in foster care that had exited to permanency placements with relatives. While the number of children placed with relatives has increased, it is not possible to determine if the percent of children released to relatives has increased in proportion to all children who exited custody to permanency placements.

1.a.5. Increased proportion of children in foster care placed in their home

neighborhoods - The progress of DYFS in placing children in foster care in their home neighborhoods was difficult to assess. The number of children placed within 10 miles of home increased from 62% in 2002 to 67% in 2006. Overall the placement of children within their neighborhoods has increased but still needs improvement. Based on the CFSR second round report, in 77.5% of cases the agency had made concerted efforts to maintain the child's connections with extended family, culture, religion, community, and school. While it was reported that an effort was made it was not reported how many

cases resulted in the successful placement of children in DYFS care within their neighborhoods

1.a.6. Decreased incidences of abuse and neglect of children in out-of-home

care - Between 2003 and 2009, the incidences of abuse and neglect of children in out-of-home care decreased from a high of .56% in 2004 to a low of .14% in 2009 (see Table 9 in the Appendix). During this same period, as a result of requirements of the 2003 Settlement Agreement and the 2006 MSA, the number of caseworkers increased, caseloads decreased, and retention rates of caseworkers also increased. This is attributed to additional resources mandated to hire caseworkers, the implementation of a new Case Practice Model, pre-service and in-service training for case-carrying workers and supervisors as well as the implementation of NJ SPIRIT and other system changes for recording and reporting data.

1.a.7. Decreased proportion of children in out-of-home care being placed in

congregate settings - As of March 31, 2010, 12% ($n = 943$) of children were placed in group and residential settings. In 2007, 78% of children met the criteria for appropriate shelter placement, rising to 79% in 2008 and 90% in 2009 surpassing the 80% benchmark (see Tables 4 and 11 in the Appendix). In early 2007 and early 2009, 4 children under the age of 13 had been inappropriately placed in shelters. By late 2009, only one child under age 13 had been inappropriately placed in a shelter (see Table 11 in the Appendix).

1.a.8. Decreased average number of placement moves experienced by children

while in out-of-home care - Between 2002 and 2006, 84% of children in out-of-home care had two or fewer placements in the first 12 months from the date of entry (see Table 11 in the Appendix). In 2008 this was increased to 85%. There were only small declines

in the number of place settings between 2006 and 2008 for place settings ranging from 1 to 5. The largest decline was observed in place settings of six or more in a current episode which declined from 13.4% in mid-2006 to 8.1% in mid-2008. No information was available for 2009 in terms of the number of placement moves by children while in out-of-home care.

1.a.9. Increased proportion of children in care, and their families, who receive the services they need - Between 2004 and 2009, there has been a strengthening of the ability of DYFS to provide for the needs/services of children, their families, and foster parents. There has been an improvement in the ability to meet the educational, physical health, and mental/behavioral health needs of the children in custody. While the array of services provided has improved between 2004 and 2009, improvement is still needed in making those services known and accessible to those who need them. According to the most recent CFSR, DYFS is still not in substantial conformity with outcomes in this area.

1.a.10. Decreased rate of re-entries into out-of-home care - According to the 2006 MSA, the percentage of children who were to re-enter foster care within 12 months of discharge was to be 11.5% by July 2010 and 9% by July 2011 (see Table 11 in the Appendix). Based on the report available on the NJ Department of Children and Families website, the percentage of children who re-entered foster care within 12 months of discharge was 12% for those who exited in 2004 and re-entered in 2005, 12% for those who exited in 2005 and re-entered through 2006, 11% for those who exited in 2006 and re-entered through 2007, 12% for those who exited in 2007 and re-entered through 2008, and 10% for those who re-entered through 2009. According to the July-December 2008 monitoring report, 15% of children who exited returned to foster care within a year. No

values were reported for 2009. The monitoring report percentage was higher than what was reported on the NJ DCF website. It is difficult to determine at this time if DCF is in compliance with the 2006 MSA settlement agreement, however, based on the DCF reported values, there has been a decrease in the number of re-entries.

1.a.12. Reduced number of adoptive and pre-adoptive placements that are disrupted - No data was found on the number of adoptive and pre-adoptive placements that were disrupted. In fact, according to the Association of Children of New Jersey Special Report (2007), critical data on the number of disrupted adoptions currently is not a statistic that is reported.

1b. To what extent did the litigation strategy enhance the system capacities of DYFS?

Based on the interview data, the lawsuit and settlement agreements laid out most of the goals and developed solution plans. Through training paid for from monies secured from the settlement agreement, most of the leaders at DYFS have gained a more in-depth understanding of the systemic problems endemic in the child welfare agency. The lawsuit helped administrators and political leaders better understanding specifically what some of the problems were with DYFS and what courses of action needed to be taken. In addition, knowing that they would be accountable to outside agencies and the court, administrators placed greater effort on understanding what was going on in the system and this helped them become more knowledgeable about the problems within DYFS.

The lawsuit helped in obtaining needed resources to enact the outlined reforms. The planning process required by the lawsuit helped administrators, staff, and other key people gain a better sense of what was lacking in the system and what areas needed reform. Prior to 2003, DYFS, the governors and the New Jersey legislature had not fully

admitted that there were systemic, cultural, and financial problems within the child welfare agency. The lawsuit that was filed in 1999 was fought by the administration for four years until Governor James McGreevey agreed to settle the case and embrace wide-scale reform. The lawsuit brought out to the public several serious problems with the system that were putting children in the care of DYFS in serious jeopardy.

1.b.1. To what extent did the relative flexibility of the process lead to greater parental and citizen involvement in articulating needs, values and desired outcomes for families and children to hold the child welfare agency accountable for achieving them?

Family involvement is a goal of making every reasonable effort to develop case plans in partnership with children and families, relatives, the families' informal support networks and other formal resources. Family teams have been implemented to facilitate family involvement. Full disclosure during Family Team meetings is designed to inform parents of their options and the consequences for failing successfully to complete the case plan. The family teams attempt to create goals that are behaviorally specific, realistic, time-limited, measurable, and clearly understood and agreed upon by the family and the court. A structured decision making (SDM) and risk management plan is supposed to be developed. Overall family involvement had not received current assessment and was not reported in the most recent monitoring report for December 2009. While there is a target of 80% by the end of 2009 and 90% by the end of 2011, this has not been assessed to determine if targets have been achieved.

In 2004, this area was identified as needing improvement. It was noted that there was a lack of assessment regarding safety, risk, and family need and insufficient ongoing evaluation of service effectiveness. Since the 2006 MSA, Statewide Assessment has been

implemented to address some of these weaknesses. The decreased caseload and restructuring of responsibilities has provided more time for the caseworker to focus on the needs of the child and families assigned to them. There has been increased availability, though gradual, of support and services outside of the DCF system. The implementation of NJ SPIRIT system has helped workers keep track and make sure SDM tools are being used correctly and in a timely manner. Since, 2004 the Systemic Factor E Service Array has been used to help provide children and families with more opportunities to learn about and gain access to services in response to the changing needs of the child and the family. The implementation of the NJ Case Practice Model has required a more child and family centered approach to case management. When placement in foster care has been determined in the best interest of the child's safety, efforts have been made to meet with the parents at the time the child is removed or within 72 hours of placement. Issues surrounding the placement of the child were discussed and input from the parents is encouraged to determine if any family or relatives are possible resources for the child's placement.

The DCF still has not achieved substantial conformity in terms of the service array and resource development, preserving connections between parents and children, and providing for the needs and services for the child, parents, and foster parents. While still not in substantial conformity in terms of the quality assurance system and the array of services, improvements have been made. However, since 2004, DCF has achieved substantial conformity in terms providing timely notices of hearings and review to caregivers and agency responsiveness to the community.

Overall, while the service array has improved since the 2006 MSA, the DCF is still not in substantial conformity as indicated by the most recent evaluations (see Table 12 in the Appendix). In 2004, DCF was not in substantial conformity in terms of the continuity of family relationships, families having enhanced capacity to provide for their children's needs, children receiving the appropriate services to meet their needs, and the family being involved in the case planning process. In addition, DCF was not in substantial conformity in terms of systemic factors related to service array and the agency responsiveness to the community. The state was not offering an array of services to meet the needs of the children and families, services were not accessible to families and children in all locations of the state, and services were not offered that were individualized to the unique needs of the child and the family. In terms of agency responsiveness to the community, the state did not engage in ongoing consultation with consumers, service providers, courts, and other stakeholders and often did not jointly develop, with its stakeholders, annual reports of progress.

Finally, since the 2006 MSA, there is still improvement needed in terms of the continuity of family relationships and the effective use of family teams to provide families with enhanced capacity to provide for their children's needs. In 2009 only 12% of children newly entering placement had a family team meeting within 30 days of entry. In the fourth quarter of 2009, 4% of children in placement had at least one family team meeting each quarter. The target was 75% in 2009 and 90% in 2010.

1.b.2. To what extent did the use of a litigation strategy lead to increased knowledge and understanding of local, state, and national resources? - Based on the interview data, there has been value in having leaders gain first-hand understanding of

how other states have addressed some of the same issues faced by the New Jersey child welfare system. DCF and DYFS partner with a multitude of outside agencies that assist in providing services. New Jersey piloted its innovative Licensed Resource Parent Adjunct Recruiters program in several counties. This program is designed to capitalize on the knowledge base of local resource parents who convene and conduct outreach events for potential new resource parents. Local resource parents know the community well and are situated to collaborate and network with organization intrinsic to the local community. The success of this program led New Jersey to expand the program statewide by having Resource Family staff in each county identify two or three potential Adjunct Recruiters to assist with recruitment in their geographic areas.

DCF works collaboratively with national experts from Adopt-Us-Kids National Resource Center, Just Babies, All Children-All Families, a Human Rights Campaign Family Project initiative (to help expand the pool of resource families), the National Resource Center for Permanency Planning and Family Connections (a federal support center to provide technical assistance focused on the placing the 100 children who have been in the system the longest). Finally, DYFS has partnered with a number of community agency representatives to provide support and expert assistance to staff. Some community agency representative are co-located within DYFS local offices such as Certified Alcohol Drug Counselors (CADCs) who provide substance abuse expertise to worker, Child Health Unit (CU) nurses who follow the health and well-being of children in placement, behavior health clinical liaisons to monitor children's behavior health needs, Domestic Violence Liaisons. Most recently, DCF developed a partnership with the Parental Representation Unit at the Office of the Public Defender and the Law Guardians.

The goals of these partnerships are to help assist workers and families to understand what resources are available and how to access them.

Finally, a new case practice model was implemented as a condition of the 2006 MSA. Both pre-service and in-service training was made mandatory for workers. This training includes policies, processes, and practices that include community, state and federal resources available. By the end of 2009, all training benchmarks had been achieved indicating that workers were receiving needed training.

1.b.3. To what extent did the use of a litigation strategy lead to the development and implementation of an effective training program? - All new caseworkers now receive 160 hours of training including intake and investigations training. Following training all case workers must pass a competency exam before assuming a full caseload. In addition, the staff receives 40 hours of in-service training. New supervisory staff receives 40 hours of training and must pass a competency exam within 3 months of assuming the supervisor position. There has been an improvement in initial training and ongoing staff training after the litigation. DYFS moved from not being in substantial conformity in 2004 to being in substantial conformity by 2009 (see Table 12 in the Appendix).

1.b.4. To what extent did the use of a litigation strategy lead to higher retention rates of excellent front-line workers? - DCF reported in 2004 that the separation rate of caseload carrying staff was 15.9% and decreased to 14.67% by 2005 with a substantial decrease to 10.32% in 2006 and 10.37% in 2007. The separation rate continued to decrease to 7.74% in 2008 reaching 5.24% by 2009. Over a period of 5 years, the separation rate had decreased by two-thirds. During this time, intake caseloads were

reduced from 15 families and 10 new referrals a month in 2006 to 15 families and 8 new referrals a month by 2008. By mid-2009, 80% of DYFS offices had reached caseloads of 12 families and 8 new referrals a month. This was a decrease of 13% to 18% among DYFS offices in the previous 6 months.

In 2006 there were 1,321 active caseload carrying staff and 704 trainees. The caseload carrying staff was increased over 70% to 2,291 with 114 new trainees by March of 2010. As of March 31, 2010, only .3% of caseworkers had caseloads of more than 30 families, .3% had 21 to 30 families, 33.1% had 11 to 20 families, and 66.3% had 1 to 10 families. In terms of supervisory staff, a ratio of 1 supervisor to 5 caseload carrying staff was achieved by 2010.

1.b.5. To what extent did the use of a litigation strategy lead to building of an administrative infrastructure to support the workers? - Based on the interview data, one of the most important goals realized from the lawsuit was DYFS investing time and resources toward improving the infrastructure that supports caseworkers. This included updating an antiquated computer system and other data recording devices, providing needed office equipment, and providing both supervisors and front-line workers with badly needed training. The lawsuit settlement required the state to fund hiring more caseworkers and thus lower caseloads, reduce the span of supervision, improve training, and provide workers with adjunct supports/resources they needed. The lawsuit enabled the union, Communications Workers of America, to require a caseload cap on DYFS caseworkers. This cap places a numerical limitation on the number of cases and children each worker would oversee during any given month. Prior to the lawsuit, no administration required a caseload cap on DHHS or DYFS workers. The lawsuit also set

limits on supervisor-caseworker ratios. In addition, training at all levels has become more formalized and comprehensive. These changes have resulted in a better trained staff with more manageable supervisory and caseworker caseloads.

According to the experts interviewed, a downside of the litigation agreement was that during the first few years after the settlement agreement was put in place, there was a great deal of employee movement as the more senior employees elected to move to newly created positions or were promoted to supervisory positions. This movement was somewhat disruptive to operations but the changes have outweighed the initial disruption. Overall, sustainability of the infrastructure is crucial to sustained reform. An effective data collection system, sufficient manpower, and knowledgeable workers are essential to sustained reform.

Beginning with the 2006 MSA, the DCF issued a turnaround plan, “Child Welfare in New Jersey: Focusing on the Fundamentals.” This plan identified key priorities for DCF and systemic changes to address safety, permanency and well-being issues. Administrative changes to support DCF workers included hiring a human resources manager to oversee training and retention of DYFS caseworkers and supervisors and to provide opportunities for staff development. New training requirements included workers completing pre-service and in-service training on safety and risk assessment. The New Jersey Child Welfare Training Academy was created to meet the learning needs of DCF workers more efficiently and comprehensively. To increase worker retention, administrative procedures were implemented that required exit interviews with the staff of the human resources department to collect data used to analyze reasons why workers left their positions. This information will be use to strengthen a worker retention plan and

improve the quality of the workforce. In addition, a liaison for each office was designated and a separation conference is held with each separating employee.

The new infrastructure also includes greater quality assurance procedures. In 2008 the Division of Central Operations that operates the State Central Registry were brought together administratively under the heading of Community Services. Field operations also were restructured from four Regional District Offices and six Adoption Resource Centers to 12 “Areas” with Local Offices that have an intake investigator and permanency and adoption workers. The new administration structure includes State Central Registry (SCR) supervisors (screening supervisors) who evaluate the competency and professionalism of call screeners on a weekly basis and screen selected calls as part of performance evaluation of screeners. The SCR administrator, casework supervisor, and supervisors hold case review meetings to address difficult cases and how to code these reports. As part of the quality assurance component, all No Action Required and Information and Referral reports received by the State Central Registry are reviewed daily by a rotation of SCR supervisors and their screening units to ensure that all reports have been coded and responded to appropriately.

DCF leaders, Area Directors and their assistant regional administrators have worked to implement the Case Practice Model. Because the new staff training often did not fit the culture in the regional office, leadership has worked to avoid the subverting of new practices by working to bring about a cultural change. This change included engaging leadership early of Area Directors by involving them in the decision-making process in developing policy and strategy. Each AD was provided with an assistant

regional administrator and team of experienced technical assistance staff to help in initial fundamental reforms of the MSA.

Overall, between 2004 and 2009, progress has been made in terms of strengthening the statewide information system, which is in substantial conformity. The administrative leadership that supports quality assurance is still not in substantial conformity though some improvement has been made. A strengthened leadership has resulted in substantial improvements in training so that this area is now in substantial conformity. There has been improvement in the quality assurance system since 2004; however, this systemic factor has not achieved substantial conformity. While case reviews have improved, there is a need for substantial improvement in terms of developing written case plans and this is tied to the quality assurance system and the ability of administrative oversight to provide the necessary supervision or training to ensure that accurate and up-to-date case plans are created for each child.

1.b.6. To what extent did the use of a litigation strategy lead to the development of a political infrastructure to support the system? - Based on the interview data, transparency by way of the monitoring reports, although nominal, has contributed to sustaining the infrastructure. Significant reforms of the New Jersey Child Welfare agency were a direct response of a settlement agreement drafted in 2003 and later the 2006 Modified Settlement Agreement arising out of the 1999 class-action lawsuit of Charlie and Nadine H. v. McGreevey brought against New Jersey by Children's Rights Advocates. High profile cases such as the death in 2003 of Faheem Williams, who had been in state custody, brought both public and private pressure on New Jersey lawmakers

either to draft new legislation that imposed mandatory changes or provide additional resources and funding to the system.

Those interviewed believed that legislative inattention or neglect contributed to inadequate accountability because there was no effective system in place that provided timely measurements of case management outcomes or quality assurance. As a direct result of the *Charlie and Nadine H. v. McGreevey*, the plaintiffs were able to gain access to 500 children's case files, allowing Children's Rights to collect information through a case review that helped to identify system deficiencies with the DCF. In addition as a means of providing public accountability of the system, the court granted the New York Times and the New Jersey Star-Ledger's motion for access of the thousands of pages of DYFS' Institutional Abuse Investigation Unit files that had been given to Children's Rights during the discovery process. Had the court not intervened, DYFS would have continued to deny access to this information to outside agencies or entities.

Prior to the lawsuit, DCF and DYFS had operated under poor management and budget cuts that led to severe underfunding of the agency. Prior to the *Charlie and Nadine H. v. McGreevey* litigation, the New Jersey Legislature provided limited funding for DYFS staffing and services while attempts at systemic reform such as creating a child ombudsman, increasing oversight, narrowing DYFS' mission, and adding more preventive services were not addressed. There had been attempts to increase staffing and wages, but they were unsuccessful in providing sufficient staffing and resources for DYFS.

Though a Blue Ribbon Panel had been created by Governor Whitman in 1997, it only resulted in superficial actions to reform DYFS, in part because the funding increases

had failed to reinstate former funding levels. In 2003, as a direct result of litigation and the terms of the 2003 Settlement Agreement, the legislature immediately allocated \$300 million to emergency relief and reform efforts. In 2004, the state called for an additional \$320 million and received a \$350 million total increase in funding for reform over the next two years to fund the increase in staffing and services. Finally, as a direct result of litigation, new legislation was signed in New Jersey creating a cabinet-level children's agency. Prior to the litigation, the Department of Humans Services had resisted any attempts to have DCF as a cabinet-level agency.

Prior to the lawsuit, there was little follow-through on legislative action to improve DYFS. In 1989, New Jersey state senators introduced a series of bills that included creating a watchdog agency but no agency was ever created. In 1992, the New Jersey Senate committee heard testimony supporting the creation of an "ombudsman for children" but this measure did not become law. At several times between 1989 and 2003, the state either made budget cuts or reduced staffing for DYFS. Following severe abuse of a child in DYFS care, there was a proposal for legislation to make redacted investigative records available to the public. The proposal was not enacted. In 1996, the state announced the purchase of 2,300 computers to link district offices and to implement a new computer system to improve case management. By 2002, the system still had not been put in place. A bill allowing some access to DYFS records in child death and near death cases was passed in June 1997 in response to the death of a 2 year old that DYFS had determined was not in danger and so did not remove from the home. In 1997, the state enacted a package of laws to bring New Jersey into compliance with the Federal Child Abuse Prevention and Treatment Act (CAPTA) and in 1999 laws to bring New

Hersey into compliance with the federal Adoption and Safe Families Act of 1997.

Overall, the litigation resulted in an improved political infrastructure related to DYFS.

1.b.7. To what extent did the use of a litigation strategy hold the political infrastructure accountable for achieving desired outcomes for children and families?

Those interviewed pointed out that U.S. District Court Judge Stanley R. Chesler has provided considerable support for the reforms efforts of DYFS. When Judge Chesler spoke from the bench he spoke directly to the governor and the legislature, reminding them that they had an obligation to maintain the political will and money needed to meet the lawsuit settlement requirements. Even though some lawmakers have resented the mandates of the settlement agreements, they have always been accountable to, and complied with, them by appropriating money and speaking publicly about the importance of reform of DYFS.

The interviewees also mentioned that the creation of DCF was important to reform. The development of a separate cabinet level children's services agency that was not explicitly required by the lawsuit, was a subject of negotiation between the plaintiffs and Governor Corzine shortly after his election to office. The interviewees believed that that this would not have happened without the litigation and that the state's progress during the period from 2005-2009 most likely would not have been as effective.

After the first settlement agreement was accepted by the state in 2003 for the Charlie and Nadine H. v. McGreevey class action lawsuit, the political structure was made accountable to providing resources, initially \$300 million, to assist the DYFS to address some of the requirements of the settlement. The political infrastructure was held accountable to making public how well DYFS was doing in achieving these goals. When

substantive progress was not made, the plaintiffs returned to the court to force the state and political structure to make significant changes. It was only through the 2006 MSA that the legislature made the DCF and DYFS a cabinet-level agency. The experts interviewed believed that the litigation strategy was effective in holding the political infrastructure accountable for achieving desired outcomes for children and families.

Finally, while some significant changes and improvements have been made to the child welfare agency in New Jersey, DCF and DYFS continue to fail to be in substantive conformity (95% of cases reviewed) with national standards. It was reported in the latest Child and Family Services Review (August 2009) that DCF and DYFS failed to achieve conformity on two of the six national standards, all seven of the safety, permanency, and child well-being outcomes, and three of the seven systemic factors. Compared to the CFSR published in 2004, there was improvement in meeting national standards (only one of 6 met in 2004), and in systemic factors (only one of seven in 2004), however, no progress has been made in achieving conformity to national standards for the seven outcomes in either 2004 or 2009 (see Table 12 in the Appendix).

2. How did the litigation and oversight strategy contribute to the overall accountability of DYFS to its statutory mission?

Based on the interview data, the ability of the court to hold the New Jersey state government accountable gave impetus to providing the resources for DYFS to make necessary changes to improve the system, such as increased funding to hire more workers and creating a cabinet level DCF. New Jersey was held accountable over time with its progress and lack of progress reported in monitoring reports that have been published every six months between 2006 and 2010. New administrations (there have been four

governors since the lawsuit was settled) have continued to support reforms that probably would not have survived in the absence of the lawsuit and settlement. Finally, the lawsuit helped the overall accountability because now there is some type of monitoring from the court appointed monitor and child protection advocacy groups such as Children's Rights who are not hesitant about returning to the court to get relief if reforms are not sustained.

Based on the interview data, a litigation strategy led to substantially increased funding that was badly needed. Without the lawsuit, DYFS would not have been allocated the over \$1 billion it has received since 2004 to spend on reform efforts. This has made a significant difference compared to reform efforts in the past and the pattern of the legislature to cut funding to DYFS prior to the lawsuit. The lawsuit provided an impetus for DYFS to change its culture, reduce case loads, and bring in to the system more qualified staff. It also helped to create ongoing accountability across the four different administrations since the lawsuit was settled. The monitoring boards and other press notoriety that the DYFS attracted helped to bring attention to what was happening in the system and forced DYFS to respond.

Finally, public disclosure has waned over the years with the elimination of the Office of the Child Advocate. In addition, in recent years, the workers union (Communications Workers of America) has not made public their concerns as they had in previous years. The original agreement in 2003 hampered the ability of the DYFS to make reforms because the reform plan made commitments that were far greater than the state could actually deliver. During the first few years after the settlement agreement was drafted, the lawsuit promoted a compliance mentality rather than a focus on system wide reform. In addition, because of the fear of negative reprisals or threats to their job

security, some DYFS workers may be afraid to speak up on sensitive issues for fear they would be called to testify in court at a later date. Also, some administrators, lawmakers, and other stakeholders perceived the results of the reform being dictated by outside agencies (e.g., the plaintiffs, court, and the oversight panel) rather than by internal agents. Finally, the efforts at reform were hindered by the extent to which leaders were waiting for the next lawsuit or next issue to arise for DYFS. Though unspoken, DYFS leaders, the governor, and legislators had their own political motivations and worked to protect political reputations.

CHAPTER SIX – DISCUSSION, IMPLICATIONS, AND CONCLUSION

Child abuse and neglect is one of the most serious social problems in the United States. For more than a century, both private and public groups and organizations have worked to intervene and remove children from abusive environments. These systems soon came under attack, accused of administrative mismanagement, poor leadership and coordination of services, needless removal of children to foster care, and leaving children in the system without adequate monitoring or assessment. The goal of child welfare agencies was to find permanency for the child either through reunification with the family or adoption and family care as opposed to institutional care.

Discussion and Implications

Recent high profile deaths of children in the custody of state welfare agencies have led many child advocacy groups to resort to litigation as a strategy for reform. Litigation has been used as a means of redesigning current case practice models, agency structure, and funding, etc. While the focus of the current study is on reform in child welfare agencies, the model of administrative accountability through litigation has a broader application to public administration and the relationship between judicial and bureaucratic control and the proper role of litigation and judicial intervention in dysfunctional public agencies.

Litigation, Accountability, and the Reform Process - The highly bureaucratic child welfare systems in the United States provide a diverse array of services for children in the custody and care of state agencies. Many of the problems within the New Jersey child welfare agency were no different than agencies in other states and many were

rooted in budget deficits (e.g., *A. S. W. v. Mink* in Oregon, 2003; *Janine v. Doyle*, in Wisconsin, 1993; *Nicholson V. Williams* in New York, 2000). Throughout the country budget deficits have led to cuts in funding for health and human services agencies including child welfare agencies. One of the primary outcomes of litigation to reform child welfare agencies has been court ordered increased funding.

There have been two distinct approaches to bring reform through court intervention. The first has been to focus on a narrow population or set of practices. For example, the *Nicholson v. Williams* case filed in 2000 dealt with the narrow issue of whether the policy of the New York City ACA to remove children from homes with suspected or documented instances of domestic violence violated the constitutional rights of children and their mothers. The court ruled that the city could not penalize a batter woman by removing her children from the home. In other words, the court found that an allegation of a child witnessing domestic violence was not a sufficient evidence of child neglect (Kosanovich & Joseph, 2005). However, even after the court stopped the practice of removing children from domestic violence homes, some panelists believed the practice continued though other reasons were cited for removing the child from the home.

The second has been to seek system wide reform and the restructure of entire programs or agencies. In the case of the New Jersey child welfare system, the litigation sought system wide reform both in terms of practices with the implementation of the new case practice model and through the restructuring of the entire program that included making DCF a cabinet level agency that was no longer under the auspices of DHS.

Over the past 30 years, about two-thirds of states have had all or part of their state child welfare systems successfully challenged in lawsuits that sought court intervention.

Most lawsuits that dealt with issues related to failure to take corrective action in response to substantiated instances of child abuse and neglect, improper placement of children, lack of reviews, missing or inadequate reunification plans, and for egregious non-compliance with federal mandates in these and other areas (ABA Center on Children and the Law, 2005). The question becomes to what extent does the use of the court system and litigation facilitate reform.

Limitations of Litigation Mandated Reform - The court remedies have been similar in the majority of the lawsuits. At first, many decrees involved forcing action through rigid rules. More recently, the decrees have been standards based and rule based. These decrees often include strict deadlines, quantifiably measured outcomes, and specific procedural and documentation guidelines to be followed and reported to the court or court designated oversight agency. This was based on the premise that the decrees should be as specific as possible.

A common sentiment expressed by one of the litigators in the Charlie and Nadine H. v. McGreevey case is that the leaders of child welfare systems will not do anything or make necessary system changes unless forced to, often by the court. The issue may not be so much a case of lack of willingness to make needed changes, but the lack of political and funding support to make changes and sustain them. In the case of New Jersey, for several years prior to the litigation, funding for the child welfare agency was cut. It was only after the lawsuit that the state was forced to provide the funding that the DYFS needed to enact reforms, especially in terms of hiring more caseworkers, providing training, and installing a system wide data collection and distribution system.

Other cases ended up in noncompliance of court mandates. In the case of *Angela R. v. Huckabee* filed in 1991 in Arkansas, a lengthy court decree was issued regarding the investigation of abuse and neglect reports and other agency services. A revised settlement agreement was devised that only included a broadly defined implementation mechanism. The modified agreement included only the ultimate standards the state was to achieve by the end of a five year term rather than stating explicit implementation steps and deadlines. The advocacy group Center for the Study of Social Policy, found that the welfare agency had failed to meet the goals set by the court decree (Kosanovich & Joseph, 2005). In another case *Emily J. v. Weicker*, filed by the Center for Children's Advocacy in Connecticut in 1993, the defendant's failed to meet court mandates. The case centered on inappropriate placement of children in state care. The court approved a negotiated consent decree in 1997 to remedy inappropriate placement of children. In 2002, the state was found to be in noncompliance for failure to develop and implement a comprehensive screening system and the continued practice of inappropriate child placement. Continued non-compliance has resulted in a second court-ordered settlement in 2007 (Kosanovich & Joseph, 2005).

In the *Charlie and Nadine H. v. McGreevey* case, the original settlement agreement had moved away from a strict command-and-control approach to an emphasis on broad goals and principles rather than a checklist of requirements. The mandates required the formation of performance measurement goals to accomplish under the supervision of a monitoring panel that assessed the extent that the New Jersey child welfare system was in compliance with the settlement agreement. The outcome of the initial court decree was mostly a failure. The need for redirection though has taken less

time than in other court cases such as the 1983 Missouri case of *G.L. v. Stangler* case which took eleven years before the parties returned to court and a new direction was formulated. In the *Charlie and Nadine H. v. McGreevey* case, two years after the 2003 settlement agreement, the court appointed monitors reported that the state failed to meet the requirements and a significant course correction was needed (New Jersey Period I Monitoring Report, 2006, p. 7).

New Jersey DCF was found in contempt of the 2003 settlement agreement, and a modified settlement agreement was negotiated. All participants, legal, monitors, and DCF leaders agreed after the fact that the first settlement agreement may have been too ambitious and set up the DCF for failure in meeting its mandates. The 2006 Modified Settlement Agreement included enforceable elements that were formulated and expected to be implemented within given times frames ranging from 6 months to five years. In July of 2006, the re-negotiated MSA was created with the new Corzine administration. The next monitoring report was more favorable, indicating that while substantial work was still needed, the New Jersey child welfare system was moving in a positive direction toward meeting decreed reforms.

However, there are still difficulties experienced in meeting court mandated system reform. In the effort to meet specifically outlined and measurable benchmarks, less attention often is paid to equally important but more difficult or controversial factors that are not easily quantifiable or measured. This has led some leaders to focus on completing the “checklist” of benchmarks but failing to deal effectively with the underlying purposes of the benchmarks. For example, one benchmark is that when children are brought into custody, they are to receive a medical and mental health

examination and are to receive quality medical care while in custody. While it is easy to quantify whether children receive a medical and mental health examination when they first enter the system, it is much more difficult to determine and measure the extent that their medical needs are adequately met while they remain in the system since each child's needs are unique. The danger for sustaining the improvements made to DYFS is that is that the focus will be on strict compliance and reporting in the paperwork and on other data gathering systems compliance with the decree rather than the quality of the day-to-day services being provided to children in the system.

Those interviewed for the study mentioned that some of the leaders of the DCF expressed concern that litigation only served to take resources from the system and was a distraction to administrators and frontline workers from their core mission of taking care of the children in their custody. Many bureaucratic agencies often experience organizational cultural conflict between frontline workers, mainly social workers and litigators, and court appointed monitors. This can result in resistance to change and a failure to internalize policies and practices that have been formulated by outside agencies (the court and outside monitors). This has happened within DCF and DYFS to some extent. Those interviewed believed that part of this conflict and cultural resistance occurred because workers and supervisors received conflicting directives from different leaders at different levels of the agency and that some of the changes were implemented without providing workers with adequate support to make the changes.

Another problem with litigation is that court decreed benchmarks tend to create static policies and practices that require continual adjustments to the system. Often modifications to a decree require that litigants and plaintiffs return to the courtroom to re-

negotiate the provisions of the agreement. The weakness is that re-negotiation requires cooperation between the litigant and plaintiff that can be time consuming and cumbersome, making it difficult to make those necessary adjustments. This happened in the DYFS case. The original benchmarks were later found to be unrealistic and this required the plaintiffs and the state to go back to the negotiation table. This situation resulted in three years passing before new benchmarks were devised.

In addition, a weakness of the command-and-control style court decrees is that they often result in difficulty changing policies and practices in situations of plaintiffs dealing with defendant non-compliance. In most situations, the plaintiffs' only recourse to change how the defendants were complying is through court action. This is what happened in the situation with New Jersey DCF and the first settlement agreement. While DCF was shown to be in non-compliance with most of the enforceable elements, the monitoring panel was limited to reporting the failure to meet the benchmarks and could not give directions on how to improve the policies and practices. The panel recommended a new agreement be drafted in which a small number of core goals are specified and on which the majority of focus is placed. In the first monitoring report the state was advised to "attempt to do a smaller number of fundamental things and to do them very well, rather than continuing to attempt to implement all portions of the reform plan with equal priority" (New Jersey Period I Monitoring Report, 2006, p. 12).

The Need for Flexibility within Litigation Settlement Agreements - Some conclusions from the interviews was that any settlement agreement that seeks reform of a large bureaucratic system must include decrees that provide the flexibility for the system to move away from a rule-bound hierarchical authority structure of administration toward

a more contextual understanding of norms and the system culture. The mandates should help and not hinder an understanding of the relationship between the administrative and authoritative center and the local units of offices surrounding and supporting that center. Finally, and most important, the decree should help develop a flexible administrative center that can respond to the need for incremental changes when needed to address problems as they arise in the system. This would increase the ability of the agency to sustain its reform.

The majority of child welfare system reforms include investments in resources to facilitate changes to infrastructure development such as money to install a new computer data collection and information processing system, to increase caseworker and supervisor personnel, and provide training. The primary goal of most child welfare agency reforms is to reduce the caseload of social workers so that they are able to expend the time and effort necessary to meet the mandated benchmarks for case processing within the designated time frames as outlined in the lawsuit agreement. This was true for the New Jersey child welfare agency. The majority of reforms involved reduction of worker case loads, the replacement of an antiquated computer data tracking and reporting system, development of a new training program based on the case plan model, and reduction of the worker-supervisor ratio that enabled supervisors to provide more consistent and frequent supervisory support.

This approach to reform that provides greater flexibility on the frontline can be a leadership challenge. There is a relationship between frontline caseworkers and offices that must be established with the central administration. The role of the administrative body is to communicate general or core goals, provide the resources to support the

achievement of those goals, and monitor the success in achieving the goals. The role of the frontline staff is to use the broad discretion given to them by the administration effectively by applying the core principles of the guidelines to their cases. The priority is shifted from meeting rigid standards to applying those standards to the achieving the goals of the mission to protect children. However, those interviewed pointed out that for any set of guidelines or case practices to be effective in the reform of DYFS they must become a part of the system culture and reflected in day-to-day practice. As a result, the norms must be accepted, both psychologically as well as in practice.

Generally, an incremental approach to reform is more effective than immediate reform of an entire system. This was demonstrated in the New Jersey case. The first agreement resulted in a system wide failure to achieve benchmarks of the decree. Everyone interviewed mentioned that the agreement was too ambitious and that the leaders were overwhelmed with the magnitude of changes that were required. In hindsight, they all agreed that the plan was unrealistic. An incremental approach to reform is more manageable for a large bureaucratic system such as the New Jersey DCF. A major issue in the first agreement was separating the child welfare agency from the Department of Health and Human services. At first there was considerable resistance from the New Jersey Department of Children and Family Services. However when the DCF was brought back into court for failure to meet benchmarks one of the concessions of the negotiation of the Modified Settlement Agreement in 2006 was creating a cabinet level department, the Department of Youth and Family Services. A second change was that reform was built around meeting benchmarks of a two phase model of change. These

incremental changes with different timeframes for implementation and assessment did not overwhelm the system as decrees of the first settlement agreement did.

The Importance of Training and Supporting the Workforce - The case worker and case plan are central features of most child welfare programs. The role of the caseworker is to coordinate and collaborate with other entities (parents, guardians, foster parents, etc) services and agencies to ensure that appropriate services are provided, periodic reviews are conducted, and that permanency and other goals are met in a timely manner.

The most significant challenge in any large bureaucratic system such as New Jersey's DYFS is for workers to have the training, knowledge, and skills that enable the caseworker make adjustments for unique or unanticipated contingencies. The ability to engage in effective decision-making is crucial to effective case management. An important component of the Case Practice Model of DCF is the involvement and collaboration of parents, family, friends, and other stakeholder's in the child's welfare and well-being.

A risk to maintaining reform are bureaucratic systemic forces that reduce the ability of caseworkers to involve parents and other stakeholder's in the process. In addition, the extent that the case worker and the case management team are able to include in a collaborative effort other professionals and agencies will affect the extent that quality assurance in care can be maintained. The ability to meet on a regular basis with parents and other stakeholder's has been one of the greatest challenges for case workers in DYFS. The monitoring reports consistently point out that maintaining consistent contact is still a major weakness of the system.

Sustaining the Accountability Process - External accountability will be maintained short-term through the 2006 MSA mandate that DCF and DYFS make public performance data and provide regular reports to the public, the legislature, and non-governmental organizations. A question that remains to be answered is to what extent DCF and DYFS will retain the monitoring regime outlined under the 2006 MSA. It may serve as a means of accountability if the agency creates an oversight panel from outside to provide a means of getting feedback on the ability of DYFS to provide quality service to the children in its custody. How quality assurance and other accountability mechanism are employed following termination of the 2006 MSA can be superficial or substantive. Real reform and accountability is achieved when DCF and DYFS are able to construct a feasible and sustaining process that includes a process of transparency and accountability to the public and legislative entities and demonstration of the capacity to engage in self-assessment and self-correction. Another indication of successful reform will be the system's internal capacity for assessment and adjustment coupled with the ability to address external accountability more openly and effectively than in the past.

Limitations with Accountability Measures - A problem with the accountability measures currently in use is that they have two limitations. Because the reporting measures do not provide for an accounting of the difficulty or severity of cases, it limits the extent that performance can be accurately assessed over time. That is, the reports do not reflect that one reporting period may have had very difficult cases to resolve compared to other reporting periods. Different systems may have different standards for when children are removed from the home. Those systems with a low threshold for removal may have a higher re-unification rate compared to systems that remove the child

only in higher thresholds of danger, thus making reunification more difficult. This is not reflected in the accountability data.

Another limitation is that the current reporting practices usually provide only a snapshot of the care any given child has received and not follow a case long-term to assess how well policy and practices are implemented from the time children enter to when they exit the system. The reports usually provide information on the effectiveness or ineffectiveness of the system in the short-run but not how well the policies and practices are sustained in the long-run. One possible approach would be to create a baseline of the problems and challenges to the successful resolution of a case and then adjust how well the case was resolved in terms of longitudinal and cross-section comparison of similar cases. This would provide some information on the long-term effectiveness of the case practice model in place. Creating the baseline, however, would require that caseworkers evaluate each case on a set of relevant parameters from a uniform standard. While this type of assessment would be informative, with the current weaknesses in the reporting systems in place, this type of information may be hard to get.

Federal Oversight and CSFR - In a perfect child welfare oversight system, the role of the federal government in relation to the state parallels the role of the local administration in relation to the states. The federal government provides both direct oversight as well as facilitating oversight at the local level. The direct federal oversight requires state accountability based on measureable performance benchmarks. As facilitator, the federal government provides material/monetary and technical resources. Oversight has largely been accomplished using the Child and Family Services Review which were implemented in 2000. The CSFR is a way of aggregating case processing

outcome through a review of a sample of cases. The primary function of the CSFR is to provide a way of tracking progress toward system wide improvement or as a means of identifying areas needing attention. The CSFR is intended to be a tool used in conjunction with state child welfare assessments. At first, states failed to meet any of the standards outlined in the CSFR. However, while many state agencies have not demonstrated compliance with the standards, progress has been demonstrated each reporting period.

Conclusion

A case practice model is structured based on legislation around individualized services, collaboration in decision-making, and assessment monitoring. Reforms have often focused on the production of Quality Service Reviews. Overall, at its core, reform involves a re-conception of day-to-day practice of frontline workers in the ability to produce accurate assessments and problem-solve. Sustainable reform is difficult without the integration of collaborative casework with diagnostic assessment and monitoring. The inclusion of these two factors makes it possible for the leadership and administration to correct mistakes and to learn from them and integrate this knowledge in an iterative process of improving the case practice model.

The key to achieving the core child welfare goals includes assessment of the underlying factors that contribute to safety, permanence, and well-being of children being threatened. Training and review provides a structure to use diagnostic tools and data in a systematic process to examine indicators both surface and those less evident upon first inspection. Crucial to intervention is planning beyond the removal of the child. This

planning involves short term goals of meeting the immediate needs of the child and long term goals of reunification or other permanency. This planning involves tailoring the response to the child's situation by providing services that are articulated through a service plan that is tailored to local circumstances.

The greatest challenge for the New Jersey DYFS is the ability to maintain reform achievements long term. Without the pressure of monitoring reports, it remains to be seen to what extent improvements in the system continue. In addition, benchmarks established based on the 2006 MSA are only starting points for reform. Systemic change is dependent upon going beyond well-defined and quantified goals to goals that are more qualitative and less well-defined. Even at this point, DYFS still has not been able to reach benchmark standards in several areas. There is a risk that old problems that plagued the system prior to litigation will creep back in and the old culture and old practices will result in a regression below the benchmarks reached. DYFS still must work toward reaching its performance goals and federally mandated reported indicators. Indicators of the ability to sustain reform would be evident in the average number of placements, family preservation, caseloads, staff turnover, average adoptions, permanency, and evidence that case plans were driving practice for a substantial portion of caseloads.

In the final analysis, based on the interviews with key stakeholders of the New Jersey child welfare system and various accountability measures, the system wide changes to DCF and DYFS would not have been achieved without the use of a litigation approached that provided the power of the courts to mandate changes to the system and that required the political system to provide the needed resources to maintain the reform efforts. It remains to be determined how long the positive changes will be sustained once

forced measures of accountability are withdrawn and the system is left to self-assess itself.

REFERENCES

- ACS unveils recruitment campaign. (2008, March 3). *The New York Daily News*. Retrieved September 29, 2008 from http://www.nydailynews.com/news/2008/03/03/2008-03-03_acs_unveils_recruitment_campaign.html
- Acting Commissioner Crummy's testimony before the senate budget and appropriations committee. (2008, April 23). State of New Jersey Department of Children and Families. Retrieved September 29, 2008 from http://www.state.nj.us/dcf/news/testimony/080423_senatebudget.html
- Administration for Children and Families. (1998, January 7). *Establishment of the citizen review panel requirement under the child abuse prevention and treatment act*. Washington, D.C.: U.S. Department of Health and Human Services.
- Atkinson, R. (1998). *The life story interview: Vol. 44. Qualitative research methods*. Thousand Oaks, CA: Sage.
- Barrett, S. (2004). Implementation studies: Time for a revival? Personal reflections on 20 years of implementation studies. *Public Administration* 82(2), 249-262.
- Barrett, S., & Fudge, C. (1981). *Policy and Action*. London: Methuen.
- Behn, R. D. (2001). Why measure performance? Different purposes require different measures. *Public Administration Review*, 63(5), 5-25.
- Behn, R. D. (2001). *Rethinking democratic accountability*. Washington, D. C.: Brookings Institution Press.
- Birkland, T. A. (2005). *An introduction to the policy process: Theories, concepts and models of policy making*. Armonk, NY: M.E. Sharpe.
- Bloomberg, L. D., & Volpe, M. F. (2008). *Completing your qualitative dissertation: A roadmap from beginning to end*. Newbury Park, CA: Sage.
- Bryan, V., Jones, B., Allen, E., & Collins-Camargo, C. (2007). Civic engagement or token participation? Perceived impact of the citizen review panel initiative. *Children and Youth Services Review*, 29, 1286-1300.
- Callahan, R. (2007). Governance: The collision of politics and cooperation. *Public Administration Reviews*, 67(2), 290-301.

- Carlsson, L. (2000). Policy networks as collective action. *Policy Studies Journal*, 28(3), 502-520.
- Child Welfare League of America. (1998). *CWLA standards of excellence for services of abused or neglected children and their families*. Retrieved July 11, 2008 from <http://www.cwla.org/programs/standards/cwsstandardsabused.htm>
- Children's Bureau (2008). *Child and family services reviews: Fact sheet for governors*. Available from <http://www.acf.hhs.gov/programs/cb/cwmonitoring/index.htm>
- Commissioner Ryan's testimony before the senate budget and appropriations committee on the proposed DCF FY07 budget. (2006, May 3). State of New Jersey Department of Children and Families. Retrieved 9/29/08 from http://www.state.nj.us/dcf/news/testimony/060503_senatebudget.html
- Cottrell, Jr., L. (1941). The case study method in prediction. *Sociometry*, 4, 358-370.
- Crabtree, B. F. & Miller, W. L. (Eds.). (1992). *Doing qualitative research*. Newbury Park, CA: Sage.
- Creswell, J. W. (1994). *Research design: Qualitative and quantitative approaches*. Thousand Oaks, CA: Sage.
- Creswell, J. W. (1998). *Qualitative inquiry and research design: Choosing among five traditions*. Thousand Oaks, CA: Sage.
- Creswell, J. W. (2005). *Educational research: Planning, conducting, and evaluating quantitative and qualitative research*. Upper Saddle River: Pearson Education.
- Davidson, E. J. (2005). *Evaluation methodology basics: The nuts and bolts of sound evaluation*. Thousand Oaks: Sage.
- Denzin, N. (1984). *The Research Act*. Englewood Cliffs, NJ: Prentice Hall.
- Dredge, D. & Jenkins, J. M. (2007). *Tourism planning and policy*. Brisbane, Australia: Wiley.
- Dubnick, M. (2002). *Seeking salvation for accountability*. Paper delivered at the 2002 Annual meeting of the American Political Science Association, August 29-September 1, 2002, Boston.
- Dubnick, M. J. (2003). Accountability and ethics: Reconsidering the relationships. *International Journal of Organization Theory and Behavior*, 6, 405-441.

- Edwards, G. C. (1980). *Implementing public policy*. Washington, D.C.: Congressional Quarterly Press.
- Eviatar, D. (n.d.). Deep impact: Lawyers bent on reforming child welfare agencies learn to love their inner bureaucrat. *Legal Affairs*. Retrieved October 13, 2008 from <http://www.legalaffairs.org>
- Feagin, Orum, & Sjoberg. (1991). *A Case for Case Study*. Chapel Hill, NC: University of North Carolina Press.
- Fitz-Gibbon, C. T., & Morris, L. L. (1978). *How to design program evaluation*. Beverly Hills: Sage.
- Fitzpatrick, J. L., Sanders, J. R., & Worthen, B. R. (2004). *Program evaluation: Alternative approaches and practical guidelines* (3ed ed.). Boston: Pearson Education.
- Focusing on child welfare system: The role of state legislators. (2005, May). *National Conference of State Legislatures*. Washington, DC: NCSL.
- Fox, C., & Miller, H. (1996). *Postmodern public administration*. Thousand Oaks, CA: Sage.
- Gall, M. D., Borg, W. R., & Gall, J. P. (1996). *Educational research: An introduction* (6th ed.). New York: Longman.
- Gall, M. D., Gall, J. P., & Borg, W. (2003). *Educational research: An introduction*. New York: Longman.
- Goggin, M. L., Bowman, A. O. M., Lester, J. P., & O'Toole, L. J. Jr. (1990). *Implementation theory and practice: Towards a third generation*. New York: Harper-Collins.
- Gouldner, A. (1954). *Patterns of industrial bureaucracy*. New York: The Free Press.
- Guba, E. G., & Lincoln, Y. S. (1989). *Fourth generation evaluation*. Newbury Park, CA: Sage.
- Hall, C. M. (2008). *Tourism planning* (2nd ed.). New Jersey: Pearson Education.
- Hall, C. M., & Jenkins, J. (1995). *Tourism and public policy*. London: Routledge.
- Ham, C., & Hill, M. J. (1994). *The policy process in the modern capitalist state* (2nd ed.). New York: Prentice Hall.
- House Report 104-081, 104th Congress, Second Session. (1996).

- Johnson, Charles A., and Bradley C. Canon. 1984. *Judicial Policies: Implementation and Impact*. Washington, D.C.: Congressional Quarterly.
- Johnson, R. B., & Onwuegbuzie, A. J. (2004). Mixed methods research: A research paradigm whose time has come. *Educational Researcher*, 33(7), 14-26.
- Jones, L., & Kaufman, L. (2003, June 25). New Jersey deal grants panel powerful role in foster care. *The New York Times*. Retrieved October 13, 2008 from <http://query.nytimes.com>
- Jordan, A. (1995). *Implementation failure or policy making? How do we theorize the implementation of European Union (EU) environmental legislation?* Boston: Allen & Bacon.
- Kaufman, L., & Chen, D. W. (2008, Sept. 18). City reaches deal on shelter for homeless. *The New York Times*. Retrieved October 5, 2008 from <http://www.nytimes.com/2008/09/18/nyregion/18homeless.html>
- Kearns, K. P. (1996). *Managing for accountability: Preserving the public trust in public and nonprofit organizations*. San Francisco, CA: Jossey-Bass.
- King, C., Stivers, C., & Collaborators (1998). *Government is us*. Thousand Oaks, CA: Sage.
- Koralek, R., Pindus, N., Capizzano, J., & Bess, R. (2001, August). *Recent changes in New Jersey welfare and work, child care, and child welfare systems*. Washington, DC: Urban Institute.
- Kosanovich, A., & Joseph, R. M. (2005). *Child Welfare Consent Decrees: Analysis of Thirty-Five Court Actions from 1995 to 2005*. ABA Center on Children and the Law
- Kvale, S. (1996). *Interviews: An introduction to qualitative research interviewing*. Thousand Oaks, CA: Sage.
- Leedy, P. D. (1997). *Practical research: Planning and design* (6th ed.). Upper Saddle River, NJ: Prentice-Hall.
- Leedy, P. D., & Ormrod, J. E. (2005). *Practical research: Planning and design* (8th ed.). Upper Saddle River: Pearson Merrill Prentice Hall.
- Lincoln, Y. S., & Guba, E. G. (1985). *Naturalistic inquiry*. Newbury Park, CA: Sage.

- Lipka, M. (2005). *Child welfare gets mixed marks: A New Jersey panel saw progress but also cited organizational problems*. Retrieved October 13, 2008 from <http://loki.stockton.edu/-bcwep/media/13.htm>
- Livio, S. K. (2005). *DYFS told to speed up effort on reform: Experts impose deadline for worker caseload cuts*. Retrieved October 13, 2008 from <http://loki.stockton.edu/-bcwep/media/13.htm>
- Livio, S. K. (2007). Report praises overhaul of child welfare system. *Real-Time News*. Retrieved October 25, 2008 from http://www.nj.com/news/index.ssf/2007/10/report_praises_overhaul_of_st.htm
- Majone, G. (1989). Evidence, argument and persuasion in the policy process. New Haven, CT: Yale University Press.
- Majone, G. & Wildavsky, A. (1979). Implementation as evolution. In J. Pressman, J. & A. Wildavsky (Eds.). *Implementation* (2nd ed.) (pp. 177-194). Berkeley: University of California Press.
- Mazmanian, D., & Sabatier, P. (1983). *Implementation and public policy*. Glenview: Scott Foreman.
- Merriam, S. B. (1998). *Qualitative research and case study applications in education* (Rev. ed.). San Francisco: Jossey-Bass.
- McCann, R. (2001). *Servant leadership in a Catholic charities agency: A case study*. Doctoral dissertation, Gonzaga University.
- McDavid, J. C., & Hawthorne, L. R. L. (2006). *Program evaluation and performance measurement: An introduction to practice*. Thousand Oaks: Sage.
- McGraw, K. M. (1991). Managing blame: An experimental test of the effects of political accounts. *American Political Science Review*, 85, 1133–1157.
- McLaughlin, J., & Jordan, G. (1998). Logic models: A tool for telling your program's performance story. *Evaluating and Program Planning*, 22, 65-72.
- McNamara, C. (2008). *Basic guide to program evaluation*. Retrieved September 29, 2008 from http://www.managementhelp.org/evaluatn/fnl_eval.htm
- Miles, M. & Huberman, A. (1994). *Qualitative data analysis*. Thousand Oaks, CA: Sage.

- Mitnick, B. M. (1980). *The political economy of regulation: Creating, designing, and removing regulatory forms*. New York: Columbia University Press.
- Moustakas, C. E. (1994). *Phenomenological research methods*. Thousand Oaks, CA: Sage.
- National Conference of State Legislatures (2005, May). *Focusing on child welfare systems: The role of state legislators*. Available from <http://www.ncls.org>.
- New Jersey continues making progress toward child welfare reform (2008, April). *Children's Rights*. Retrieved October 13, 2008 from <http://www.childrensrights.org/news-events/press/new-jersey-continues-making-progress>
- New Jersey Department of Children and Families sets new course for child welfare system (2006). *State of New Jersey Department of Children and Families*. Retrieved October 19, 2008 from http://www.state.nj.us/dcf/home/settlement_agreement.html.
- Newman, S. (1999, August 5). Rights group sues New Jersey over child welfare system. *The New York Times*. Retrieved July 27, 2008 from <http://query.nytimes.com>.
- Nixzmary Brown's mother, Nixzaliz Santiago, found guilty of manslaughter in 7-year-old girl's death. (2008, October 17). *New York Daily News*. Retrieved October 19, 2008 from http://www.nydailynews.com/news/ny_crime/2008/10/17/2008-10-17_nixzmary-browns_mother_nixaliz_santiago_html
- O'Toole, L. J., Jr. (2004). The theory-practice issue in policy implementation research. *Public Administration*, 82(2), 309-329.
- Outrage over abuse, death of NYC girl. (2006, January 13). *CBS News*. Retrieved October 19, 2008 from <http://www.cbsnews.com/stories/2006/01/13/earlyshow/main1206722.shtml>
- Patton, M. Q. (1987). *How to use qualitative methods in evaluation*. Newbury Park, CA: Sage.
- Patton, M. Q. (1990). *Qualitative evaluation and research methods* (2nd ed.). Newbury Park, CA: Sage.
- Patton, M. Q. (2002). *Qualitative Research and Evaluation Methods*. Thousand Oaks, CA: Sage Publishers.
- Petr, C. G. (1998). *Social work with children and their families: Pragmatic foundations*. New York: Oxford University Press.

- Poertner, J., McDonald, T., & Murray, C. (2000). Child welfare outcomes revisited. *Children and Youth Services Review*, 22, 789-810.
- Poertner, J. & Press, A. (1991). Representation of children in child abuse and neglect cases: A comparison of court appoint special advocates with staff attorney models: Who best represents the interest of a child in court: *Child Welfare*, 69(6), 537-549.
- Polkinghorne, D. E. (2007). Validity issues in narrative research. *Qualitative Inquiry*, 13(4), 471-486.
- Power, M. (1997). *The audit society: Rituals of verification*. Oxford: Oxford University Press.
- Pressman, J. L., & Wildavsky, A. B. (1979). *Implementation: How Great Expectations in Washington are Dashed in Oakland; Or, Why it's amazing that federal programs work at all, this being a saga of the Economic Development Administration as told by two sympathetic observers who seek to build morals on a foundation of ruined hopes* (2nd ed.). Berkeley: University of California Press.
- Pulki, H., & Treib, O. (2007). Implementing public policy. In F. Fischer, G. Miller, & M. S. Sidney (Eds.). *Handbook of public policy analysis* (pp. 89-108). New York: CRC Press.
- Raths, D. (2008). Child welfare system boosts oversight of New Jersey foster care and adoption. *Government Technology*.
- Rhodes, R. A. W. (1997). *Understanding Governance: Policy networks, governance, reflexivity and accountability*. Birmingham, England; Open University Press.
- Rohr, J. A. (1986). *To run a constitution: the legitimacy of the administrative state*. Lawrence: University Press of Kansas.
- Romzek, B., & Dubnick, M. (1987). Accountability in the public sector: Lessons learned from the challenger tragedy. *Public Administration Review*, 47(3), 227-238.
- Romzek, B., & Ingraham, P. W. (2000). Cross pressures of accountability: Initiative, command, and failure in the Ron Brown plane crash. *Public Administration Review*, 60(3).
- Rubin, E. (2005). The myth of accountability and the anti-administrative impulse. *Michigan Law Review*, 103, 2073-2136.
- Rubin, H. J., & Rubin, I. S. (1985). *Qualitative inquiry: The art of hearing data*. Thousand Oaks, CA: Sage.

- Sabatier, P. A. (1986). Top-down and bottom-up approaches to implementation research: A critical analysis and suggested synthesis. *Journal of Public Policy*, 6(1), 21-48.
- Sanders, J. R. (1994). *The program evaluation standards: How to assess evaluations of educational programs* (2nd ed.). Thousand Oaks: Sage.
- Sandler, R., & Schoenbrod, D. (2004). *Democracy by decree: What happens when courts run government?*. Cambridge, Yale University Press.
- Schorr, A. L. (2000). The bleak prospect for public child welfare. *Social Service Review*, 74, 124-136.
- Selman, P. (1992). *Environmental planning: The conservation and development of biophysical resources*. London: Paul Chapman.
- Senate proposes child murder law after Brooklyn girl's murder. (2006, January 24). *WRBG CBS Channel 6 and the Associated Press*. Retrieved October 19, 2008 from http://www.cbs6albany.com/news/_870_article.html
- Settlement of class-action lawsuit to launch court-ordered reform of New Jersey's foster care system*. (2003). Retrieved October 13, 2008 from <http://linbrary.adoption.com/laws-and-legal-issues/settlement-of-clas-action-lawsuit-to-launch-court-ordered-roform-of-NewJerseys-foster-care-system>
- Spotlight on Child Welfare. (2004). *Cornwall Metronews*. Newark, New Jersey: Cornwall Center for Metropolitan Studies.
- Stenning, P. C. (1995). *Accountability for criminal justice*. Toronto: University of Toronto Press.
- Tetlock, P. (1992). The impact of accountability on judgment and choice: Toward a social contingency model. In M. Zanna (Ed.), *Advances in Experimental Social Psychology* (pp. 331-376). San Diego: Academic Press.
- Treuren, G., & Lane, D. (2003). The tourism planning process in the context of organized interest, industry structure, state capacity, accumulation and sustainability. *Current Issues in Tourism*, 6(1), 1-22.
- U.S. Department of Health and Human Services (1998). Establishment of the citizen review panel requirement under the Child Abuse Prevent and Treatment Act (ACYF-PI-CD-98-01). Washington, D.C.: Author on team functioning: An empirical investigation. *Human Factors*, 38, 87-100.
- Van Meter, D., & Van Horn, C. (1975). The policy implementation process. *Administration and Society*, 6(4), 445-488.

- Waldfoegel, J. (1998). *The future of child protection: How to break the cycle of abuse and neglect*. Cambridge, MA: Harvard University Press.
- Wert, E. S., Fein, E., & Hailer, W. (1986). Children in placement (CIP): A model for citizen-judicial review. *Child Welfare*, 65, 199-201.
- Williams-Mbengue, N., & Ramirez-Frey, K. (1999). A new look at child protection. *State Legislatures*, 25(10), 25-32.
- Wholey, J. S. (1983). *Evaluation and effective public management*. Boston: Little, Brown, & Co.
- Wholey, J. S. (1987). Evaluability assessment: Developing program theory. In L. Bickman (Ed.), *Using program theory in evaluation*. New Directions for Program Evaluation, No. 33. San Francisco: Jossey-Bass.
- Wholey, J. S. (1999). Performance-based management: Responding to the challenges. *Public Productivity and Management Review*, 22(3), 288-306.
- Wolcott, H. (1988). Ethnographic research in education. In R. Jaegger (Ed.), *Complimentary methods for research in art education* (pp. 187-206). Washington, D.C.: American Education Research Association.
- Wyden, P. (19985). *Day one: Before Hiroshima and after*. New York: Warner Books.
- Vihill, G. M. (2005). Child advocacy group wants faster progress on DYFS reform. Retrieved October 13, 2008 from <http://loki.stockton.edu/-bcwep/media/13.htm>
- Yin, R. K. (1989). The case study as a serious research strategy. *Knowledge: Creation, Diffusion, Utilization*, 3(1), 97-114.
- Yin, R.K. (1994). *Case Study Research: Design and Methods* (2nd ed.). Thousand Oaks, CA: Sage.
- Yin, R. K. (2003). *Case study research: Design and methods* (Vol. 5). *Applied social research methods series* (3rd ed.). Thousand Oaks, CA: Sage.
- Zalkin, C. (2005). *ACNJ responds to NJ child welfare panel's first monitoring report*. Retrieved October 13, 2008 from <http://loki.stockton.edu/-bcwep/media/13.htm>

APPENDIX

SUMMARY OF MONITORING REPORT FINDINGS

Table 1

Summary of Progress on 2006 Modified Settlement Agreement Requirements: New Case Practice Model

2006 Modified Settlement Agreement Requirements	Due Date	Monitoring Report Period - Requirement Filled						
		July-Dec 2006	Jan-June 2007	July-Dec 2007	Jan-June 2008	July-Dec 2008	Jan-June 2009	July-Dec 2009
II.A New Case Practice Model	12/2006							
II.A.3: Develop and begin to implement a new case practice model.		Yes	Yes					
II.A.4: Identify the methodology used in tracking successful implementation of the Case Practice Model in order to create baseline data that will be available for key case practice elements.	12/2007			Yes	No ^a	Yes		
II.A.5: In reporting during Phase I on the State's compliance, the Monitor shall focus on the quality of the case practice model and the actions by the State to implement it.	12/2008 Ongoing					Yes	Yes	Yes

Note: ^a = Monitor is was still negotiating, not enough data to develop baseline.

Table 2

Summary of Progress on 2006 Modified Settlement Agreement Requirements: Training

2006 Modified Settlement Agreement Requirements	Due Date	Monitoring Report Period - Requirement Filled						
		July-Dec 2006	Jan-June 2007	July-Dec 2007	Jan-June 2008	July-Dec 2008	Jan-June 2009	July-Dec 2009
II.B: Training								
II.B.1: Pre-Service Training								
a. Institute pre-service training program to include training on intakes and investigations and the new case practice model that is at least 160 class hours.	9/2006	Yes	Yes					
b. 100% of new caseworkers will be enrolled in new pre-service training program – enrolled within two weeks of start date.	9/2006 ongoing	Yes	Yes	Yes 98%	Yes 97%	Yes	Yes	Yes 100%
c. No case carrying worker shall assume a full caseload until completing pre-service training and passing competency exams.	9/2006 ongoing	Yes	Yes	Yes	Yes 94%	Yes	Yes	Yes 100%
II.B.2: In-Service Training								
a. Develop and institute In-Service Training program for case carrying staff, supervisors and case aides	4/2007	Yes	Yes					
b. 100% of all case carrying workers and supervisors shall participate in a minimum of 20 hours of In-Service Training and passing competency exams.				Yes 99%				
c. Completion of pre-service training and competency exams will be required for 100% of case-carrying workers. No case worker will have a full caseload until completing Pre-Service Training and passing competency exams	9/2006 Ongoing				In Progress	Yes	Yes	Yes 100%
d. Implement in-service training on concurrent planning for all current case carrying staff.	9/2006 ongoing	Yes ^a	Yes		Yes	Yes 96%	Yes 97%	Yes 93%
e. 100% of cases carrying caseworkers, supervisors and case aides without prior training on the new case practice model shall have received this training	2008 Ongoing		Yes	Ongoing				

(Table 2 continues)

(Table 2 continued)

2006 Modified Settlement Agreement Requirements	Due Date	Monitoring Report Period - Requirement Filled						
		July-Dec 2006	Jan-June 2007	July-Dec 2007	Jan-June 2008	July-Dec 2008	Jan-June 2009	July-Dec 2009
II.B.3: Investigation/Intake Training								
a. All new staff responsible for conducting intake or investigations shall receive specific, quality training on intake and investigations process, policies and investigations techniques and shall pass competency exams before assuming responsibility for intake/investigation cases.	9/2006 Ongoing	Yes ^b	Yes	Yes 95%	Yes 85%	Yes 100%	Partially 94%	Yes 92%
b. Begin giving specific training on intake and investigations process, policies and investigations techniques to all staff currently responsible for conducting intake or investigations. All staff responsible for intake or investigation not previously trained shall receive specific training on intake and investigations process, policies, and investigation techniques.	6/2007	Yes	Yes					
II.B.4: Supervisory Training								
a. Develop and begin to provide supervisory training program.	9/2006 Ongoing	Yes						
b. Begin training for all staff newly promoted to supervisory positions beginning December 2006 and continuing thereafter. Staff to complete training and passed competency exams within 3 months of promotion. 100% of all staff newly promoted to supervisory positions shall complete their 40 hours of supervisory training and shall have passed competency exams within 3 months of assuming their supervisory positions.	12/2006 Ongoing	Yes	Yes	Yes 100%	Yes 100%	Yes	Yes	Yes
c. 100% of supervisors promoted to supervisor before December 2006 shall receive their 40 hours of the supervisory training and have passed competency exams	6/2007		Yes					

Note: ^a = substantially improved; ^b = Competency Exam Developed and administered, passing rate not yet determined.

Table 3

Summary of Progress on 2006 Modified Settlement Agreement Requirements: Service for Children and Families

2006 Modified Settlement Agreement Requirements	Due Date	Monitoring Report Period - Requirement Filled						
		July-Dec 2006	Jan-June 2007	July-Dec 2007	Jan-June 2008	July-Dec 2008	Jan-June 2009	July-Dec 2009
II.C: Service for Children and Families.								
II.C.1: DCBHS to complete assessment of continuum of child behavioral health services.	12/2006	Yes						
II.C.2: Seek approval from federal government for Medicaid structure to support the use of community and evidence-based informed or support practices for children and families.	6/2007		NA ^a					
II.C.3: Permit the utilization of flexible funds for birth families involved with DYFS to better promote family preservation and reunification. Monitoring Report III (July-Dec. 2007) The State will amend its policies and procedures to support family preservation and reunification through the use of flexible funds for birth families. DYFS will be permitted to increase the amount of expenditures that may be made without obtaining consent for an exception to the rule from \$1,500 annually to \$8,634 annually. The current limitations that payments made on behalf of birth parents may not be made for a period exceeding 3 months shall be extended to 12 months.	6/2007		Yes	Yes				
II.C.4: The State will develop and thereafter implement a plan for appropriate service delivery for gay, lesbian, bisexual transgender and questioning (GLBTQ) youth.	6/2007 ongoing		Yes	Ongoing	Partially ^b	Yes In Progress	Yes	Yes In Progress
II.C.5: Promulgate and implement policies designed to ensure continuous services to youth between ages 18 and 21 similar to services previously available.	6/2007 ongoing		Yes	Ongoing	Yes ^c	Yes In Progress	Yes	Yes In Progress

(Table 3 continues)

(Table 3 continued)

2006 Modified Settlement Agreement Requirements	Due Date	Monitoring Report Period - Requirement Filled						
		July-Dec 2006	Jan-June 2007	July-Dec 2007	Jan-June 2008	July-Dec 2008	Jan-June 2009	July-Dec 2009
II.C.6: Provide mental health services to at least 150 birth parents whose families are involved with the child welfare system.	12/2008					Yes		
II.C.7: Expand its preventive home visitation program above the baseline slots available as of June 2006.	12/2008					Yes		
II.C.8: Support and additional 205 child care slots for children whose families are involved with DYFS above the baseline available as of June 2006.	6/2008				Yes			
II.C.9: Expand its support of the violence prevention and child therapy initiative, "Peace: A Learned Solution" (PALS) to four additional counties above the number of counties where PALS operates as of June 2006.	6/2008				Yes			
II.C.10: Increase the flexible funding available above the amount available as of December 2006, to meet the unique needs of children and birth families.	6/2008				Yes			
II.C.11: Add 18 transitional living program beds for youth between the ages of 16 and 21 above the number of beds available in June 2006.	6/2008		Yes ^b		Yes			
II.C.12: Increase substance abuse services to DCF-involved parents and children to include (i) 30 new residential treatment slots for parents; (ii) 50 new intensive outpatient care slots for parents; and (iii) 20 new residential treatment slots for youth.	6/2008				Partially			

Note: ^a = Not Applicable; ^b = Requirement met early; ^b = Developed preliminary plan and marginal evidence of implementation; ^c = additional services/resources need to be developed

Table 4

Summary of Progress on 2006 Modified Settlement Agreement Requirements: Finding Children Appropriate Placement

2006 Modified Settlement Agreement Requirements	Due Date	Monitoring Report Period - Requirement Filled						
		July-Dec 2006	Jan-June 2007	July-Dec 2007	Jan-June 2008	July-Dec 2008	Jan-June 2009	July-Dec 2009
II.D: Finding Children Appropriate Placements								
II.D.1: Implement an accurate real time bed tracking system to manage the number of beds available from DCBHS and match those with children who need them.	12/2006 ongoing	Yes			Yes	Yes	Yes	Yes
II.D.2: Minimize out-of-state congregate care placements (10/2006). The State shall create a process to ensure that no child shall be sent to an out-of-state congregate care facility. The process will also ensure that for any child who is sent out-of-state an appropriate plan to maintain contacts with family and return the child in-state as soon as appropriate (6/2008).	10/2006 ongoing	Yes			Yes		Yes	Yes
	6/2008					Yes		
II.D.3: Evaluate the needs of children in custody, currently placed in out-of-state congregate placements, identify additional in-state services to serve these children, determine and develop action steps with timetables to serve children with these needs in-state and develop those services and placements.	6/2007 ongoing		Yes	Yes ongoing	Yes			
II.D.4: Assess the efficacy of a separate division for children's behavioral health for meeting the behavioral health needs of children in custody of the state.	9/2007			Yes				
II.D.5: Implement automated system to identify all post-disposition foster youth in juvenile detention facilities have placement process that assures placement within in 30 days of disposition.	12/2006 ongoing	Yes			Yes		Yes	Yes

(Table 4 continues)

(Table 4 continued)

2006 Modified Settlement Agreement Requirements	Due Date	Monitoring Report Period - Requirement Filled						
		July-Dec 2006	Jan-June 2007	July-Dec 2007	Jan-June 2008	July-Dec 2008	Jan-June 2009	July-Dec 2009
II.D.6: Develop and implement methodology for identifying children placed out-of-state in congregate care who might be returned and stepped down to lower LOC.	9/2006 Developed	Yes						
	10/2006 Implemented							
II.D.7: The State shall not place a child under the age of 13 in a shelter.	7/2007 ongoing			Yes		Yes		
II.D.8: Eliminate the inappropriate use of shelters as an out-of-home placement for children in its custody.	6/2007 ongoing		Yes	Partially ^a	No ^b	No ^c		
II.D.9: In consultation with the Monitor, shall set forth a placement process consistent with the Principles of this Agreement and sufficient to meet the needs and purposes of this Agreement.	12/2008					Yes		

Note: ^a = 78% met criteria for appropriate shelter placement; ^b = 79% met criteria for appropriate shelter placement; ^c = 89% were appropriately placed.

Table 5

Summary of Progress on 2006 Modified Settlement Agreement Requirements: Case Loads

2006 Modified Settlement Agreement Requirements	Due Date	Monitoring Report Period - Requirement Filled						
		July-Dec 2006	Jan-June 2007	July-Dec 2007	Jan-June 2008	July-Dec 2008	Jan-June 2009	July-Dec 2009
II.E: Caseloads								
II.E.1: Develop an interim caseload tracking system.	12/2006	Yes						
II.E.2: Provide on a quarterly basis an accurate caseload data to plaintiffs and public via the DCF website.	12/2006 ongoing	Yes			Partially	Yes	Yes	
II.E.3: Hire new Human Resources Director	12/2006	Yes						
II.E.4: Make "Safe Measures" available to all staff.	12/2006 ongoing	Yes			Yes	Yes	Yes	
II.E.5: DCF shall train all staff on "Safe Measures."	12/2006	Yes				Yes	Yes	
II.E.6: 60% of offices have permanency worker with average caseloads of 15 families or fewer and no more than 10 children I out-of-home care.	12/2006	Yes						
II.E.7: 42% of offices have intake worker caseloads averaging no more than 15 families or less and no more than 10 new referrals per month.	12/2006	Yes						
II.E.8: 80% of office have supervisory ratios of 5 to 1.		Yes ^a						
II.E.9: 79% of office shall have average caseloads at the standard of 15 families or less and 10 children in out-of-home care or less for the permanency staff.	6/2007		Yes 84%					
II.E.10: 58% of office shall have average caseloads for the intake staff at an interim caseload standard of 15 families or less and 10 new referrals or less.	6/2007		Yes 82%					
II.E.11: 85% of offices shall have sufficient supervisory staff to maintain a 5 worker to 1 supervisor ratio.	6/2007		Yes 87%					

(Table 5 continues)

(Table 5 continued)

2006 Modified Settlement Agreement Requirements	Due Date	Monitoring Report Period - Requirement Filled						
		July-Dec 2006	Jan-June 2007	July-Dec 2007	Jan-June 2008	July-Dec 2008	Jan-June 2009	July-Dec 2009
II.E.12: 95% of offices have average caseloads for permanency staff at caseload standard of 15 families or less and 10 children in out-of-home care or less.	12/2007			Yes 100%				
II.E.13: 63% of office shall have average caseloads for intake staff at an interim caseload standard of 15 families or less and 8 new referrals per month or less.	12/2007			Yes 73%				
II.E.14: 90% of office shall have sufficient supervisory staff to maintain a 5 workers to 1 supervisor ratio.	12/2007			Yes 98%				
II.E.15: 95% of offices have average caseloads for permanency staff at caseload standard of 15 families or less and 10 children in out-of-home care or less.	6/2008				Yes			
II.E.16: 74% of offices shall have average caseloads for the intake staff of 12 families or less and 8 new referrals per month or less.	6/2008				Yes			
II.E.17: 95% of offices shall have sufficient supervisory staff to maintain a 5 worker to 1 supervisor ratio.	6/2008				No 87%			
II.E.18: 95% of offices shall have the average caseload standard for permanency staff of 15 families or less and 10 children in out-of-home care or less.	12/2008					Yes		
II.E.19: 95% of offices shall have average caseloads for the intake staff at the caseload standard of 12 families or less and 8 new referrals per month or less.	12/2008					Yes		
II.E.20: 95% of offices shall have sufficient supervisory staff to maintain a 5 worker to 1 supervisor ratio.	12/2008					Yes 94%	Yes 95%	Yes 98%

Note: ^a = Through combination of casework supervisors performing unit supervisor functions.

Table 6

Summary of Progress on 2006 Modified Settlement Agreement Requirements: Provision of Health (Medical and Dental)

2006 Modified Settlement Agreement Requirements	Due Date	Monitoring Report Period - Requirement Filled						
		July-Dec 2006	Jan-June 2007	July-Dec 2007	Jan-June 2008	July-Dec 2008	Jan-June 2009	July-Dec 2009
II.F: Provision of Health (Medical and Dental)								
II.F.1: Hire Chief Medical Office.	8/2006	Yes						
II.F.2: 100% of children receive Pre-Placement assessments upon entering out-of-home care, 95% in non-emergency room settings.	12/2008					Yes 99.9%		
II.F.2: 80% of children receive Comprehensive Medical Examinations within 60 days of entering out-of-home care placement. Jun-Dec 2009 80% of children receive Comprehensive Medical Examinations within 30 days of entering out-of-home placement and at least 85% within 60 days.	12/2008					Yes 79%	Yes	
	June 2009						Yes 80% 92%	
II.F.2: 80% of children in out-of-home placement receive regular exams in accordance with EPSDT guidelines. Jun-Dec 2009 90% of children in out-of-home placement receive regular exams in accordance with EPSDT guidelines; 98% by 6/2010.	12/2008 80%		75%			Partially 77%	Yes ^c	No 92%
	6/2009 90%							12-24 months 93%
	12/2009 95%							2 years and older

(Table 6 continues)

(Table 6 continued)

		Monitoring Report Period - Requirement Filled							
		Due Date	July- Dec 2006	Jan- June 2007	July- Dec 2007	Jan- June 2008	July- Dec 2008	Jan- June 2009	July- Dec 2009
2006 Modified Settlement Agreement Requirements									
II.F.2: 90% of children will receive annual dental examinations and 70% will receive semi-annual dental examinations; 95% annual, 80% semi-annual 6/2010; 98% annual, 85% semi-annual by 12/2010; 98% annual and 90% semi-annual by 6/2011.	6/2009 90% annual 70% semi-annual		60% annual 33% semi-annual					Yes 80% Semi-annual	
	12/2009 95% annual 75% semi-annual								
II.F.2: 75% of children with suspected mental health need will receive a mental health assessment; 80% by 12/2008; 85% by 6/2009; 90% by 12/2011.	6/2008 75%							Yes 89%	
	12/2008 80%								
	6/2009 85%								
II.F.2: 70% of children will receive follow-up care and treatment to meet health care and mental health needs; 75% by 12/2009; 80% by 6/2010; 85% by 12/2010; 90% by 6/2011; 90% by 12/2011.	6/2009 70%					70%		Yes 93%	
	12/2009 75%								
II.F.3: 70% of children entering care to have pre-placement assessments in a non-emergency room setting.	Beginning 12/2006	Yes							
II.F.4: Gather data to establish baseline for provision of medical and dental services for 2007 and thereafter.	12/2006	Yes							

(Table 6 continues)

(Table 6 continued)

2006 Modified Settlement Agreement Requirements	Due Date	Monitoring Report Period - Requirement Filled						
		July-Dec 2006	Jan-June 2007	July-Dec 2007	Jan-June 2008	July-Dec 2008	Jan-June 2009	July-Dec 2009
II.F.5-6: Set health care baselines and targets. Methodology for tracking compliance decided.	1/2007		Yes ^a		No ^b			
a. Pre-Placement assessment completed in a non-emergency room setting; 90% by 6/2007	1/2008 Ongoing				No ^b	Yes 91%	Yes 99.6% Partially 92% non-ER setting	
b. Comprehensive medical exams completed within 60 days of child's entry into care. 75% 6/2007; 75 % 6/2008					No ^b 75%	No 27%		
c. Medical examinations in compliance with EPSDT guidelines for children in care for one year or more; 75% 6/2007; 6/2008					No ^b	75%	Data not avail.	
d. Semi-annual dental exams for children 3 yrs and older in care six months or more; 60% annual, 33% semi-annual 6/2007; 60% annual 6/2008.					No ^b		Data not avail.	
e. Mental health assessments for children with a suspected mental health need. 80% by 12/2008; 90% by 2011.					No ^b	No 59%		
f. Receipt of timely accessible/appropriate follow-up care and treatment to meet health care and mental health needs. 80% by 12/2008; 90% by 12/2011.					No ^b	No 70%	Data not avail.	
g. 90% of children in custody will be current with immunizations; 95% by 12/2010' 98% by 12/2011.	12/2009				No ^b		Data not avail.	
h. Children's caregivers receive an up-do-date health passport within 3 days of placement.					No ^b			

(Table 6 continues)

(Table 6 continued)

		Monitoring Report Period - Requirement Filled							
		Due Date	July- Dec 2006	Jan- June 2007	July- Dec 2007	Jan- June 2008	July- Dec 2008	Jan- June 2009	July- Dec 2009
2006 Modified Settlement Agreement Requirements									
II.F.5-6: 100% of children receive Pre-Placement assessments upon entering out-of-home care, 95% in non-emergency room settings.	12/2008 95%		90%			Yes 99.9%	Yes 99.6% Partially 92% non-ER setting	Yes 99.5% PPA 98% Appropriate for setting	
	12/2009 98%								
II.F.5-6: 80% of children receive Comprehensive Medical Examinations within 60 days of entering out-of-home care placement. Jun-Dec 2009 80% of children receive Comprehensive Medical Examinations within 30 days of entering out-of-home placement and at least 85% within 60 days.	12/2008					Yes 79%	Yes		
	6/2009						Yes		
II.F.5-6: 80% of children in out-of-home placement receive regular exams in accordance with EPSDT guidelines 6/2009, 90% of children in out-of-home placement receive regular exams in accordance with EPSDT guidelines.	12/2008					Partially 77%			
	6/2009 ongoing						Yes ^c		
II.F.5-6: 65% of children 3 and older in out-of-home placement receive annual dental exams; 50% receive semi-annual exams. 6/2009, 90% of children 3 and older in out-of-home placement receive annual dental exams; 70% receive semi-annual exams.	12/2008					Yes 67% statewide 59%			
	6/2009 ongoing						No 64%		

(Table 6 continues)

(Table 6 continued)

		Monitoring Report Period - Requirement Filled						
	Due Date	July-Dec 2006	Jan-June 2007	July-Dec 2007	Jan-June 2008	July-Dec 2008	Jan-June 2009	July-Dec 2009
2006 Modified Settlement Agreement Requirements								
II.F.5-6: 80% of children in out-of-home placement with a suspected mental health need receive a mental health assessment. 6/2009, 85% of children in out-of-home placement with a suspected mental health need receive a mental health assessment.	12/2008					59%		
	6/2009 ongoing						Unable to determine	
II.F.5-6: 65% of children in out-of-home placement with medical/mental health issues identified in the Comprehensive Medical Exam (CME) (receive timely accessible and appropriate follow-up care. 6/2009, 70% of children in out-of-home placement with medical/mental health issues identified in the Comprehensive Medical Exam (CME) receive timely accessible/ appropriate follow-up care.	12/2008					No 49%		
	6/2009 ongoing					Yes 70%	Unable to determine extent for all needs	
II.F.5-6: Children in out-of-home care are current with immunizations	90% current 6/30/2009				81%	81% statewide		Yes 90%
	95% current 12/31/2009							
	98% current 12/30/2010 ongoing							
II.F.7: 90% of children entering out-of-home custody shall have pre-placement assessments in a setting other than an emergency room.	6/2007 ongoing		Yes 92%	Yes 90%				
II.F.8: Identify a statewide coordinated system of health care including a provision to develop a medical passport for children in out-of-home care. By 12/2008 Children’s caregivers receive an up-to-date health passport within 5 days of placement; 75% by 6/2010; 95% by 6/2011.	6/2007 ongoing			Yes		Data Not Avail.	No 13% had initial PPA	68%
	12/2008					Pending review		6/2010 not yet reported

Note: ^a = Baseline set but methodology for measuring all health care were still being negotiated; ^b = 2008 Benchmarks not met or unable to measure on a statewide basis—only 27% received timely comprehensive medical exams within 60 days; ^c = Yes for 3+ and unable to determine for under 3

Table 7

Summary of Progress on 2006 Modified Settlement Agreement Requirements: Permanency Planning and Adoption

2006 Modified Settlement Agreement Requirements	Due Date	Monitoring Report Period - Requirement Filled						
		July-Dec 2006	Jan-June 2007	July-Dec 2007	Jan-June 2008	July-Dec 2008	Jan-June 2009	July-Dec 2009
II.G: Permanency Planning and Adoption								
II.G.2: Develop and begin implementation of permanency practices that include: five and ten month placement reviews and transfer of cases to adoption worker within 5 days of court approving permanency goal change to adoption.	12/2006 ongoing	Yes				Partially ^c	No ^d	
II.G.3: Develop adoption tracking system that sets up adoption targets based on milestones/finalizations.	12/2006	Yes						
II.G.4: Develop adoption process tracking system that records completion of important practices including 5-month and 10-month reviews, permanency hearings.	12/2006	Yes						
II.G.5: Continue to provide paralegal support and child case summary writers support for adoption staff in local offices.	12/2006 ongoing	Yes		Yes	Yes	Yes	Yes	
II.G.6: Institute Adoption Impact Teams.	12/2006	Yes						
II.G.7: Develop plans and commit resources to address adoption backlogs in Local Offices.	12/2006	Yes						
II.G.8: Designate one resource family recruiter for each Area Office to do specific recruiting for individual adoptable children.	12/2006	Yes						
II.G.9: Identify/train adoption workers in local offices. In 88% of offices, all children with goal of adoption should be on the designated adoption worker's caseload, unless child has established relationship with permanency worker.	12/2006 ongoing	Yes			Yes	Yes	Yes	Yes
II.G.10: 35% of offices will have average caseloads of 18 or fewer children for their adoption staff.	12/2006	Yes						

(Table 7 continues)

(Table 7 continued)

2006 Modified Settlement Agreement Requirements	Due Date	Monitoring Report Period - Requirement Filled						
		July-Dec 2006	Jan-June 2007	July-Dec 2007	Jan-June 2008	July-Dec 2008	Jan-June 2009	July-Dec 2009
II.G.11: Finalize 1,100 adoptions during Calendar Year 2006	12/2006	Yes						
II.G.12: Complete the adoption case transfer process across 100% of offices.	6/2007		Yes					
II.G.13: 60% of offices for the adoption staff will have average caseloads consisting of 18 or fewer children.	6/2007		Yes 90%					
II.G.14: Implementation of the adoption process tracking system.	6/2007		Yes ^a					
II.G.15: Issue reports based on the adoption process tracking system.	12/2007 ongoing			Partially ^b	Partially	Partially	Yes	Yes
II.G.16: 81% of offices will have average caseloads for the adoption staff consisting of 18 or fewer children with a subset of 35% of total offices achieving average caseloads for adoption staff of 15 or fewer children.	12/2006 ongoing			Yes 93%				
II.G.17: Finalize 1400 adoptions for calendar year 2007.	12/2007			Yes 1,540				
II.G.18: 95% of offices will have average caseloads for adoption staff of 18 or fewer, with a subset of 60% of total offices achieving average caseloads for adoption staff of 15 or fewer children.	6/2008				Yes			
II.G.19: 95% of offices will have average caseloads for adoption staff of 15 or fewer children.	12/2008					Yes 95%		

Note: ^a = Not yet expanded statewide; ^b = routine reports not made available; ^c = 95% cases at 5 month, 97% at 10 month, 55% transfer to adoption worker within 5 days of goal change; d = 82% required 5 month review, 84% required 10 month reviews, and 33% transferred to adoption worker within 5 days of goal change.

Table 8

Summary of Progress on 2006 Modified Settlement Agreement Requirements: Resource Families

2006 Modified Settlement Agreement Requirements	Due Date	Monitoring Report Period - Requirement Filled						
		July-Dec 2006	Jan-June 2007	July-Dec 2007	Jan-June 2008	July-Dec 2008	Jan-June 2009	July-Dec 2009
II. H: Resource Families								
II.H.1: DCF to take over licensing resource families.	12/2006	Yes						
II.H.2: Appoint new head of Resource Family Recruitment and Retention Program.	9/2006	Yes						
II.H.3: DCF to designate point person in each area office to recruit and support resource families.	12/2006	Yes						
II.H.4: Time to process application of resource family for licensure = 150 days.	12/2006 ongoing	Yes		No 25%	No 43%	No 51%	No 57%	No 67%
II.H.5: Create "Impact Teams" for licensing resource families.	12/2006	Yes						
II.H.6: Implement methodology to ensure license applications are processed within 150 days.	12/2006	Yes						
II.H.7: Establish target number of new resource families for each office.	12/2006	Yes						
II.H.8: Establish accurate baseline of available resource families, broken down into kinship and non-kinship families.	12/2006	Yes						
II.H.9: The State shall create an accurate and quality tracking and target setting system for ensuring there is a real time list of current and available Resource Families.	6/2007 ongoing		Yes	Yes	Yes	Yes	Yes	Yes
II.H.10: 1,030 Non-kin Resource Family homes are licenses.	6/2007		Yes ^a					
II.H.11: Establish new targets for number of new resource families to license by office.	12/2007			Yes				
II.H.12: License 1071 non-kin resource family homes between January 2007 and December 2007.	12/2007			Yes 1,376				

(Table 8 continues)

(Table 8 continued)

2006 Modified Settlement Agreement Requirements	Due Date	Monitoring Report Period - Requirement Filled						
		July-Dec 2006	Jan-June 2007	July-Dec 2007	Jan-June 2008	July-Dec 2008	Jan-June 2009	July-Dec 2009
II.H.13: Create a methodology for setting annualized targets for resource family non-kin recruitment based on a needs assessment for such homes by county throughout the State of New Jersey.	12/2007			Yes	Yes	Yes	Yes	Yes
	1/2008 ongoing							
II.H.14: Provide flexible funding at the same level or higher than provided in FY'07 to ensure that families are able to provide appropriate care for children and to avoid the disruption of otherwise stable and appropriate placements.	6/2008				Yes	Yes	Yes	Yes
II.H.15: Continue to further close by 25% the gap between current Resource Family support rates and the USDA's estimated cost of raising a child.	1/2007	Yes						
	1/2008				Yes	Yes		
	1/2009							
II.H.17: Review the Special Home Service Provider (SHSP) resource family board rates to ensure continued availability of these homes and make adjustments as necessary.	1/2009					Yes	Yes ^b	Review Complete Change in process

Note: ^a = 1,287 non-kin family resource homes licensed; ^b = Review complete and change in process

Table 9

Summary of Progress on 2006 Modified Settlement Agreement Requirements: Institutional Abuse Investigations Unit

2006 Modified Settlement Agreement Requirements	Due Date	Monitoring Report Period - Requirement Filled						
		July-Dec 2006	Jan-June 2007	July-Dec 2007	Jan-June 2008	July-Dec 2008	Jan-June 2009	July-Dec 2009
II.I: Institutional Abuse Investigations Unit (IAIU)								
II.I.1: Locate IAIU within DCF.	7/2006	Yes						
II.I.2: Maintain a continuous quality improvement (CQI) unit within IAIU to screen all corrective action plans and ensure follow up.	12/2007			Yes				
II.I.3: Completed 80% of IAIU investigations within 60 days.	6/2007 ongoing		Yes 89%		Yes 80%	Yes 83-90%	Yes 85-90%	
II.I.4: All IAIU investigators provided with specific training on intake and investigations process, policies, and investigative techniques.	6/2007		Yes					
II.I.5: Hire sufficient IAIU field investigators such that 95% of investigators shall have no more than 8 new cases per month and 12 open cases at a time.	6/2008 ongoing				Yes 96%	Partially 81%		

Table 10

Summary of Progress on 2006 Modified Settlement Agreement Requirements: Data

2006 Modified Settlement Agreement Requirements	Due Date	Monitoring Report Period - Requirement Filled						
		July-Dec 2006	Jan-June 2007	July-Dec 2007	Jan-June 2008	July-Dec 2008	Jan-June 2009	July-Dec 2009
II.J: Data								
II.J.1: Identify initial set of key indicators, ensure accuracy and publish.	8/2006	Yes						
II.J.1: Identify, ensure and publish key management indicators, additional key management indicators and additional (non-key management) indicators)	Ongoing					Yes		
II.J.2: Initiate management reporting based on Safe Measures.	9/2006 ongoing	Yes			Partially ^b	Yes	Yes	Yes
II.J.3: Identify, ensure and publish key management indicators and non-key management indicators	11/2006	Yes						
	2/2007 ongoing				Partially ^c	Yes		
II.J.4: Implement New Jersey SPIRIT Release 2, Phase 1.	7/2006	Yes						
II.J.5: Identify, ensure accuracy, and publish additional indicators.	2/2007		Yes					
II.J.5: Identify, ensure and publish key management indicators, additional key management indicators and additional (non-key management) indicators).	Ongoing					Yes		
II.J.6: DCF shall annually produce DCF agency performance reports produced with a set of measures approved by the Monitor.	2/2007 ongoing		Yes		No	Yes	Yes	Yes
II.J.7: New Jersey SPIRIT Release 2, Phase II	2/2007		Yes ^a					
II.J.8: All case carrying workers trained on New Jersey SPIRIT.	5/2007		Yes					

(Table 10 continues)

(Table 10 continued)

		Monitoring Report Period - Requirement Filled						
		Due Date	July- Dec 2006	Jan- June 2007	July- Dec 2007	Jan- June 2008	July- Dec 2008	Jan- June 2009
2006 Modified Settlement Agreement Requirements								
II.J.9: Issue regular, accurate reports from Safe Measures.	8/2007 ongoing			Partially ^c	Partially ^d	Yes	Yes	Yes
II.J.10: Produce caseload reporting that tracks actual caseloads by office and type of worker and, for permanency and adoption workers, that tracks children as well as families.	12/2007 ongoing				Yes	Yes	Yes	Yes
II.J.11: Maintain an accurate worker roster.	12/2007 ongoing			Yes	Yes	Yes		

Note: ^a = pilot site operational, full state deployment was set for August, 2007; Safe Measures reports are generated but not consistently accurate; ^c = Regular reports not yet available; ^d = Reports are not consistently reliable and accurate

Table 11

Summary of Progress on 2006 MSA Requirements for Phase II: Targeted Performance Levels for Critical Outcomes

Settlement Agreement Requirements	Due Date	Monitoring Report Period - Requirement Filled							
		Jan- June 2006	July- Dec 2006	Jan- June 2007	July- Dec 2007	Jan- June 2008	July- Dec 2008	Jan- June 2009	July- Dec 2009
III.A.1: Outcome abuse and Neglect of Children in Foster Care									
a. No more than 0.53% of children will be victims of substantiated abuse or neglect by a resource parent of facility staff member.	7/2009 0.53%	0.3%							Yes 0.14%
	7/2010 0.49%								
b. No more than 7.2% of children who remain at a home after a substantiation of abuse or neglect will have another substantiation within the next twelve months.	7/2009	7.4%					Yes 3.5%		
c. 4.8% of children who reunified will be the victims of substantiated abuse or neglect within one year after reunification.	7/2009	5.0%					7.0%	Unable to determine	Unable to determine
III.A.2.a.i: Interim and final targets will be set for reunification and adoption	6/2008					In Process ^a			
a. 43% of all children who enter foster care for the first time will have been discharged to permanency (reunification, permanent relative care, adoption and/or guardianship) within 12 month from their removal from home; 45% by 12/2010; 50% by 12/2011.	12/2009				41%		Yes 43%		

(Table 11 continues)

(Tabled 11 continued)

Settlement Agreement Requirements	Due Date	Monitoring Report Period - Requirement Filled							
		Jan- June 2006	July- Dec 2006	Jan- June 2007	July- Dec 2007	Jan- June 2008	July- Dec 2008	Jan- June 2009	July- Dec 2009
A.II. a. 45% of children legally free for adoption will be discharged to a final adoption in less than 12 months from the date of becoming legally free; 55% by 12/2010; 60% by 12/2011.	12/2009					35%	Yes 60%	Unable to determine	Unable to determine
a. 45% of children will be discharged from foster care to adoption within 30 months from removal from home; 55% by 12/2010; 60% by 12/2011.					37%				Yes 44%
a. 43% of children in care on the first day of 2009 and had been in care between 13 and 24 months will be discharged to permanency prior to their 21 st birthday or by the last day of the year; 45% by 12/2010; 47% by 12/2011.	12/2009				43%				Yes 43%
a. 41% of all children who were in foster care for 25 months or longer on the first day of 2009 will be discharged to permanency prior to their 21 st birthday or by the last day of the year.	12/2009				36%				No 35%
b. All children who leave custody, no more than 14% will re-enter custody within one year of the date of exit; 11.5% by 7/2010; 9% by 7/2011.	7/2009						15%	Unable to determine	Unable to determine

(Table 11 continues)

(Table 11 continued)

Settlement Agreement Requirements	Due Date	Monitoring Report Period - Requirement Filled							
		Jan- June 2006	July- Dec 2006	Jan- June 2007	July- Dec 2007	Jan- June 2008	July- Dec 2008	Jan- June 2009	July- Dec 2009
III.A.3: Placement Restrictions								Unable to Determine	
a. Of the number of children entering care in a period, the percentage with two or fewer placements during the twelve month period beginning with the date of entry .	12/2008 86%	84% between 2002- 2006					Yes 85%		
	6/2009 88%								
b. 65% of 2 or 3 siblings entering custody will be placed together within 30 days; 70% by 7/2010; 75% by 7/2011; 80% by 2012.	7/2009			63%					Yes 74%
b. 30% of 4 or more siblings entering custody will be placed together within 30 days; 35% by 7/2010; 40% by 7/2011.	7/2009			30%					Yes 31%
c. Placement of children in family setting (Family Resource Home/Kinship Home)	6/2008 83%				83%	Not Reported		No 81%	Yes 85%
	7/2009 85%								

(Table 11 continued)

(Table 11 continues)

Settlement Agreement Requirements	Due Date	Monitoring Report Period - Requirement Filled							
		Jan- June 2006	July- Dec 2006	Jan- June 2007	July- Dec 2007	Jan- June 2008	July- Dec 2008	Jan- June 2009	July- Dec 2009
III.B.1: Caseloads									
a. 95% of office with average caseloads meeting the standard and at least 95% of individual workers with caseloads meeting the standard, permanency workers; no more than 15 families and no more than ten children in out-of-home care.	6/2009 ongoing							Yes 97%	Yes 97%
b. 95% of offices with average caseloads meeting the standard and at least 95% of individual workers with caseloads meeting the standard: intake workers; no more than 12 open cases and no more than 8 new case assignments per month.	6/2009 ongoing							No—ind. caseload of 78% Yes—ave. caseload	No 91%
c. 95% of offices with average caseloads meeting the standard and at least 95% of individual workers with caseloads meeting the standard: IAIU investigators; no more than 12 open cases and no more than 8 new case assignments per month.	6/2009 ongoing							Yes 100%	Yes 100%
d. 95% of office with average caseloads meeting the standard and at least 95% of individual workers with caseloads meeting the standard: adoption workers; no more than 12 children.	6/2009 ongoing							Partially Yes-ave. No 91% ind.	
III.B.2: Investigation of alleged child abuse/neglect received by the field in a timely manner and commenced within the required response time as identified at SCR, but no later than 24 hours. 6/2008 90% received, 75% commenced; 7/2009, 98% received, 98% commenced.	6/2008 90%						Yes 90% Received		Yes 97% Received
	6/2009 75%						No 53% commenced		No 83% commenced

(Table 11 continued)

(Table 11 continues)

		Monitoring Report Period - Requirement Filled								
Settlement Agreement Requirements		Due Date	Jan- June 2006	July- Dec 2006	Jan- June 2007	July- Dec 2007	Jan- June 2008	July- Dec 2008	Jan- June 2009	July- Dec 2009
III.B.3: Investigations of alleged child abuse and neglect shall be completed within 60 days.	6/2009 80%					66-71%				No 71%
	12/2009 95%									
III.B.4: By 6/2007, 80% Investigations in resource homes and investigations involving group homes, or other congregate care setting shall be completed within 60 days.	6/2007				Yes 83-88%					Yes 79%
III.B.6: 80% of children placed in shelters in compliance with MSA standards on appropriate use of shelters to include: as 1) an alternative to detention; 2) a short-term placement of an adolescent in crisis not to extend beyond 30 days; or 3) a basic center for homeless youth.	12/2008 75%					63%		Unable to determine		Yes 90%
	6/2009 80%									
	12/2009 90%									
a. No children under age 13 in a shelter.	12/2008 ongoing			4 under 13 placed in shelters					Partially ^b	Yes 1 under 13 in shelter

(Table 11 continued)

(Table 11 continues)

Settlement Agreement Requirements	Due Date	Monitoring Report Period - Requirement Filled							
		Jan- June 2006	July- Dec 2006	Jan- June 2007	July- Dec 2007	Jan- June 2008	July- Dec 2008	Jan- June 2009	July- Dec 2009
III.B.7. Caseworker Visits with Children in State Custody									
a. 75% of children will have two visits per month during the first two months of initial placement or subsequent placement; by 12/2010 95%	12/2009							No 43%	No 18%
b. 85% of children will have at least one visit per month; 98% by 6/2010.	6/2009						80%		Yes 89%
III.B.8: Caseworker visits with parents/family members									
a. 60% of families have a least twice per month face-to-face contact with their caseworker when the permanency goal is reunification; 95% by 12/2010.	12/2009					29%			No 24%
b. 85% of families shall have at least one face-to-face caseworker contact per month, unless parental rights have been terminated. No 2009 Benchmark set.	12/2010								29% Unable to determine
III.B.9: Visitation between children in custody and their parents									
a. 50% of children will have visits with their parents every other week and 40% of children will have weekly visits; 85% and 40% by 12/2010.	12/2009						17% weekly visits		No 2% with parents 9% children had 2 or 3 contacts a month

(Table 11 continued)

(Table 11 continues)

Settlement Agreement Requirements		Monitoring Report Period - Requirement Filled							
		Due Date	Jan- June 2006	July- Dec 2006	Jan- June 2007	July- Dec 2007	Jan- June 2008	July- Dec 2008	Jan- June 2009
III.B.10: 60% of children will have at least monthly visits with their sibling when children in custody and siblings placed apart; 85% by 12/2010.	12/2009						42%		Data not avail.
III.B.11: 80% Children receiving Comprehensive Medical Exams completed within 60 days of child’s entry into care; 6/2008 80% in 30 days, 85% in 60 days; 1/2009 85% in 30 days and 98% in 60 days.	6/2008 80% 30 days 85% 60 days			27% 60 days		80% 60 days		48% 30 days 74% 60 days	Yes 84% 30 days 97% 60days
	12/2008 85% 30 days 98% 60 days								
III.B.12: Child Specific Adoption Recruitment									
III.B.12(i): 90% of children in custody whose permanency goals is adoption shall have a petition to terminate parental rights filed within 6 weeks of the date of the goal change.	7/2009						16%		No 43%
a(ii): 90% of children in custody whose permanency goals is adoption and for whom an adoptive home has not been identified at the time of termination of parental rights shall have a child-specific recruitment plan developed within 30 days of the date of the goal change.	7/2009						14%		No 18%

(Table 11 continues)

(Table 11 continued)

Settlement Agreement Requirements	Due Date	Monitoring Report Period - Requirement Filled							
		Jan- June 2006	July- Dec 2006	Jan- June 2007	July- Dec 2007	Jan- June 2008	July- Dec 2008	Jan- June 2009	July- Dec 2009
III.B. a(iii): 75% of children in custody whose permanency goal is adoption and for whom an adoptive home has not been identified at the time of termination shall be placed in an adoptive home within 9 months of the termination of parental rights.	7/2009							63%	No 56%
b. 80% of adoptions finalized shall have been finalized within 9 months of adoptive placement; 80% by 7/2009.	12/2008						85%		Yes 95%
	7/2009								
III.C.1									
a-b. Placements of children in resource homes shall conform to the following limitations; no child shall be placed in a resource home if that placement will result in the home having more than four foster children, or more than two foster children under age two, or more than six total children including the resource family's own children. Exceptions to these limitations may be made as follows: (a) no more than 5% of resource home placements may be made into resource homes with 7 or 8 total children include the resource family's own children, but such placements may be made so long as other limitations are adhered to; (b) any of the limitations above may be waived if needed and appropriate to allow a group of siblings to be placed together.	6/2009 Ongoing 5%								Yes Only .0009 over capacity

(Table 11 continued)

(Table 11 continues)

Settlement Agreement Requirements	Due Date	Monitoring Report Period - Requirement Filled							
		Jan- June 2006	July- Dec 2006	Jan- June 2007	July- Dec 2007	Jan- June 2008	July- Dec 2008	Jan- June 2009	July- Dec 2009
III.C.2: Promulgate and implement policies designed to ensure that psychotropic medication is not used as a means of discipline or control and that the use of physical restraint is minimized.	6/2009							Partially	Partially In Progress
III.C.4: Continue to meet the final standards for pre-licensure and ongoing training of resource families, as described in Phase I.	Ongoing							Yes	Yes
III.C.5: Incorporate into its contracts with service providers performance standards consistent with the Principles of the MSA.	6/2009							Yes	Yes
III.C.6: In consultation with the Monitor, develop and implement a well-functioning quality improvement program consistent with the principles of the MSA and adequate to carry out reviews of case practice in Phase II.	6/2009							No Planning Underway	Partially
II.C.7: Regularly evaluate the need for additional placements and services to meet the needs of children in custody and their families, and to support intact families and prevent the need for out-of-home care. Such needs assessments shall be conducted on an annual, staggered basis that assures that county is assessed at least once every three years. Develop placements and services consistent with the findings of these needs assessments.	6/2009 ongoing							Partially	
III.C.8: Reimbursement rates for resource families shall equal the medial monthly cost per child calculated by the United States Department of Agriculture for middle-income, urban families in the northeast.	6/2009 ongoing							Yes	Yes

Note: ^a = still negotiating targets; ^b = 4 children (< 1%) placed in a shelter.

Table 12

Comparison of 2004 and 2009 Children's Bureau Child & Family Services Reviews

State's Conformance with National Standards	Met Standard		Did not Meet Standard	
	2004	2009	2004	2009
Absence of maltreatment recurrence (data indicator)		X	X	
Absence of child abuse and/or neglect in foster care (data indicator)		X	X	
Timeliness and permanency of reunifications (Permanency Composite 1)			X	X
Timeliness of adoptions (Permanency Composite 2)			X	X
Permanency for children and youth in foster care for long periods of time (Permanency Composite 3)	X	X		
Placement stability (Permanency Composite 4)		X	X	
States Conformance with the Outcomes	Achieved Conformity		Did Not Achieve Conformity	
	2004	2009	2004	2009
Safety Outcome 1: Children are, first and foremost, protected from abuse and neglect.			X	X
Safety Outcome 2: Children are safely maintained in their homes whenever possible and appropriate.			X	X
Permanency Outcome 1: Children have permanency and stability in their living situations.			X	X
Permanency Outcome 2: The continuity of family relationship and connections is preserved for children.			X	X
Child and Family Well-Being Outcome 1: Families have enhanced capacity to provide for their children's needs.			X	X
Child and Family Well-Being Outcome 2: Children receive appropriate services to meet their educational needs.			X	X
Child and Family Well-Being Outcome 3: Children receive adequate services to meet their physical and mental health needs.			X	X
State's Conformance with the Systemic Factors				
Statewide Information System	X	X		
Case Review System			X	X
Quality Assurance System			X	X
Staff and Provider Training		X	X	
Service Array and Resource Development			X	X
Agency Responsiveness to the Community		X	X	
Foster and Adoptive Parent Licensing, Recruitment, and Retention		X	X	

Curriculum Vitae

Ariel Alvarez
 U.S. Citizenship
 Place of Birth: Cuba
 Date of Birth: February 11, 1976

EDUCATION:

J.D. Law Degree 2012.	ST. THOMAS UNIVERSITY, SCHOOL OF LAW, Miami Gardens, Florida, Anticipated Graduation, May
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PH.D. Doctoral Degree Feb. 2011	RUGTERS UNIVERSITY, Newark, NJ Major: Public Administration and Management
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M.A. Masters Degree Jan. 2003	RUTGERS UNIVERSITY, Newark, NJ, Major: American Government/Political Science <i>Graduated Phi Sigma Alpha (honors) with a distinction in the Major. Completed: January 2003.</i>
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B.A. Bachelors Degree, May 2001.	KEAN UNIVERSITY, Union, NJ Major: American Government,
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A.S. Associates Degree	BERKELEY COLLEGE, West Paterson, NJ Major: Paralegal Studies
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COLLEGE TEACHING EXPERIENCE and OTHER PROFESSIONAL EXPERIENCE.

Employer: BERKELEY COLLEGE, Garret Mountain, New Jersey.
Department, Liberal Arts, Department Chair: Dr. Marilyn Kulik
 Position: Adjunct Professor, ***Start date: January 2009 to August 2009.***
 Classes Taught: 1. Law and Society
 2. Art of An Argument, General Education.

Employer: EISDORFER, EISDORFER, Law Offices, LLC.
position: Administrator/Senior Paralegal April 2000 to August 2009