

Court condemns handling of child abuse allegation

Warren mom faces new hearing on whether she neglected to protect girl

BY ROBERT SCHWANEBERG Star-Ledger Staff February 17, 2005

In a ruling that criticized a judge, the state Division of Youth and Family Services and the Warren County Prosecutor's Office, a state appeals court yesterday ordered a new hearing on whether a mother failed to protect her 13-year-old daughter from molestation by the girl's stepfather, a convicted sex offender.

Although the ruling was a victory for DYFS, which sought to reopen the case, the three-judge appeals court said the agency "failed to give this family in crisis the type of attention it deserved."

It also criticized the prosecutor's office for refusing to give DYFS details of the stepfather's 1991 conviction for having sex with a different underage girl. And the court faulted Superior Court Judge Amy O'Connor for accepting the mother's story that her daughter had recanted her allegations of sexual abuse, without interviewing the girl.

In all, the 54-page opinion by Appellate Division Judge Jose Fuentes reads like a primer on how not to handle an allegation of childhood sexual abuse. Appellate Division Judges Steven Lefelt and Joseph Falcone joined Fuentes' opinion.

The ruling gives DYFS a second chance to charge the mother with neglect for allowing her second husband to move back in with her and her daughter. The stepfather has not been criminally charged.

The opinion identifies the family members by fictitious names: 13-year-old "Cathy," her mother "Linda" and stepfather "Lawrence."

The case began on May 30, 2003, when Cathy told a friend she was being molested, according to the appeals court. The friend's mother overheard and notified the Alpha Borough police.

At the police station, the court said, Cathy told investigators from the Warren County Prosecutor's Office that Lawrence would enter her bedroom several times a week between 3 and 4 a.m. and molest her.

Lawrence denied the abuse, the court said. A DYFS representative also interviewed Cathy at the police station and got her mother to agree to keep Lawrence away from the girl, the court said.

"From this point on, the investigation proceeded without any apparent sense of urgency," the opinion added.

Linda claimed that on June 9, 2003, Cathy admitted she made up the charges against her stepfather, and DYFS was informed the following day, the appeals court said. But the girl was not re-interviewed by prosecutors until December 2003 and, "inexplicably," O'Connor never got a transcript of that session, the court said.

On Oct. 15, 2003, Linda allowed Lawrence to move back in with her and Cathy after becoming "totally convinced ... that nothing happened," the opinion said. But the appeals court questioned Linda's judgment and faulted her for not notifying DYFS first.

John Zaiter, the mother's lawyer, said Lawrence has since been removed from the home by court order.

It was not until Nov. 13, 2003, that a report of a medical examination of Cathy performed the previous July was finally submitted, concluding the girl had been sexually abused, the court said. An expert witness for the mother disputed that finding.

Fuentes said the delays in investigating the case may have pressured Cathy into recanting.

"The longer the investigation by law enforcement authorities takes, the greater the pressure on the child to take action to ease the tension on the family brought about by his or her own accusation," he wrote.

He criticized the mother, saying her willingness to view Lawrence's 1991 sex conviction as a mere "mistake" displayed "either a disturbing gullibility or an irrational resistance to the truth."

That 1991 conviction "bore a striking similarity to the molestation Cathy initially described," the appeals court said. It faulted the prosecutor's office for refusing to release those files to DYFS because of "an inordinate, and in our view, puzzling preoccupation with protecting

Instead, we need to clearly define job descriptions and each agency's role in protecting children and strengthening families. We also need to eliminate duplication on both the bureaucratic and case management levels. Before we fill all these new positions, let's talk about what they're going to do. The goal should be a streamlined system that responds effectively to troubled families. Let's improve the current structure so it could possibly become a framework for a new department in the future.

ACNJ also shares the panel's concerns that the court-enforceable elements of the plan are driving decisions, rather than the safety and well-being of children.

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 caseload. Plus, we believe that greater accountability is a cornerstone of this effort. It has been difficult to get reliable baseline data to effectively assess how the reforms are affecting children.

We also strongly agree that efforts to create stronger community services are stalled. We need strong state leadership and funding to move that forward. Helping troubled families before children are hurt must be a top priority.

To read the Panel's full report, go to: www.aecf.org/njpanel and click on Monitoring Report

families.

Way said only 139 of the 1,900 DYFS caseworkers supervise more than 30 families. In May 2004, 371 caseworkers were responsible for at least 30 families. The state has hired 260 new workers and made an effort to close cases that no longer need intervention.

The panel also concluded that the state will miss the court-mandated June 30 deadline to move an estimated 400 children out of detention centers and shelters, particularly those in need of mental health treatment.

Child welfare experts say children who have not been treated for behavioral or mental health problems often wind up in detention after committing petty crimes. Many times, they remain in detention -- where they are at risk from others charged with serious crimes -- because the state does not have enough programs to treat them.

Cohen said he expects state officials to come up with a revised timetable to meet this goal, and show some progress in finding alternative arrangements by June.

Way said she expects the state will be ready to discuss a more concrete plan to move these youngsters out of institutions when a report assessing the housing and treatment needs of DYFS children is complete by the end of this month.

Other suggestions in the report include streamlining the department's bureaucracy and hiring a consultant to evaluate mental health services for kids. It also lauded many of the state's accomplishments, including raising the monthly pay for all foster families; moving to close the Arthur Brisbane Child Treatment Center in December; and improving foster children's access to medical care.

The report drew a mix of concern and optimism yesterday.

"The report demonstrates that the state is making progress in the area of child welfare reform. However, there is much more that needs to be done," said Kelley Heck, spokeswoman for acting Gov. Richard Codey. She noted that Codey has included \$180 million for the reform in his proposed 2006 budget.

Officials at Children's Rights Inc., which filed the lawsuit, urged the state to follow the panel's recommendations. "This settlement agreement is court-ordered and if the state does not comply, it could end up back in court," said Marcia Robinson Lowry, executive director of Children's Rights.

Lowry said Human Services Commissioner James Davy should stop the "bureaucratic tinkering" and create a separate state department devoted solely to children's services: "Until there is a dramatic change in the structure, we don't see how all the state's good intentions can actually make children's lives better."

Lisa Eisenbud, director of monitoring for the Office of the Child Advocate, said she found the report "deeply concerning ... However, we are encouraged by the panel's diagnosis of the problems and generally agree with the recommendations on how to get reform on track."

Hetty Rosenstein, president of Local 1037 of the Communications Workers of America, the union representing DYFS workers, noted that areas for improvement included developing more relationships with community leaders to work with DYFS.

"We have not mastered the safety issues yet. Let's master the safety issues before we get to the niceties of community involvement," Rosenstein said.

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User-unfriendly adoption agencies

Report finds state systems discourage many prospective parents from pursuing foster kids

BY DAVID CRARY March 12, 2005 Associated Press

NEW YORK -- The backlog of children languishing in foster care could be sharply reduced if state agencies were more friendly and helpful to prospective parents asking about adoptions, according to a new report which says fewer than one of 16 adults who make initial inquiries actually ends up adopting.

The vast majority give up "not because they want to, but apparently because they decide not to deal with a system they perceive as too frustrating, bureaucratic and just plain unfriendly," the Evan B. Donaldson Adoption Institute says.

The report urges state agencies to set up hotlines staffed by well-trained employees who provide callers with immediate, encouraging

For instance, 493 county children currently are living in foster care, having been removed from their parents' or guardians' homes due to abuse or neglect, with 11 percent of those children in "the system" for more than five years.

In 2002, 48 out of every 1,000 county children were involved in cases in which allegations of abuse or neglect in their homes had surfaced, the highest rate of the state's 21 counties.

Nearly 20 percent of those cases were substantiated, the 10th highest rate in the state.

Part of the reform plan Davy spoke about in Bridgeton nearly a year ago was to create a system in which all of the responsibility for child welfare services did not fall on the overburdened Division of Youth and Family Services (DYFS).

The plan was to create additional divisions to handle varying issues facing the state's children and families, such as children's behavioral health, while leaving safety and protection issues to DYFS.

Another product of the reform plan is the Division of Prevention and Community Partnerships, which will assist the individual county councils in getting established and furthering the message that county residents can and should look out for the welfare of neighboring children.

The division's assistant commissioner, Carla Cook-Harris, was among the speakers at Tuesday's program.

"The Child Welfare Planning Council will focus on prevention. In the past, the job was to put out fires. Now, we're working to prevent fires," Cook-Harris said.

Vineland resident Evelyn DeJesus told the crowd how she and her children were saved by DYFS and other social services caseworkers.

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Trauma follows 'alumni' of foster care, study finds

BY PEGGY O'CROWLEY

front end of our system," Deputy Human Services Commissioner Kathi Way said in a prepared statement yesterday.

The department made the announcement jointly yesterday with the New Jersey Child Welfare Panel, the court-appointed body of national experts monitoring the state's compliance with a lawsuit settlement that requires vast improvements to the child welfare system.

Judy Meltzer, a panel member, praised the state's decision "to revisit this critical aspect of the reform implementation."

Last week, the panel told the state the year-old reform effort "has not come close to meeting the state's commitments," citing in particular the "inadequate and confusing guidelines" for classifying cases.

The Communications Workers of America, the labor union representing DYFS workers, embraced the policy change yesterday after lobbying top state officials for many months to overturn it.

"In our view, any allegation that warrants the government looking into the living conditions for children deserves a full investigation with a trained DYFS worker with a reasonable caseload," said Hetty Rosenstein, president of CWA Local 1037.

"It's about time and it's not enough," said Susan Lambiase of Children's Rights Inc., the national advocacy group whose lawsuit on behalf of foster children prompted the court-monitored reform. "I think if they didn't do this, they would be in serious trouble with the panel."

The change in policy comes after two child deaths this year.

An anonymous caller reported to the hotline on July 11 that Alana Duff's mother used alcohol and drugs, left the toddler and her 12-year-old sister alone, and had failed to seek treatment for a burn on the toddler's foot. The toddler was left unattended and drowned in her backyard pool in Waretown on July 20.

In this case, the hotline screener and supervisor incorrectly coded the case as low risk, state officials say. In addition, the caseworker never visited the house within the five-day requirement for low-risk cases. The hotline screener, supervisor and the caseworker have been reassigned until an internal investigation is done, according to state officials.

The death in February of 6-year-old Phillip O'Donnell of Highland Park also raised questions about the hotline screening process. The hotline deemed tips about his mother's depression and possible neglect as low risk. Days later, his mother, Alice, was charged with drugging and smothering him.

Way, the deputy commissioner, also announced that several categories of child maltreatment classified as low risk will now get full-fledged investigations. Examples include any report of sex between children, complaints involving a family already monitored by DYFS, and allegations involving a child under the age of 7, department spokeswoman Laurie Facciarossa said.

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PRESS RELEASE: August 4, 2005

222 South Warren Street, Trenton, NJ 08625 Contact: Laurie Facciarossa Andy Williams

SRC Response Time

The Department of Human Services today announced that it plans to require that any allegation of child maltreatment be investigated by the Division of Youth and Family Services (DYFS) within 24 hours and will suspend the practice of coding some less serious child maltreatment allegations as "child welfare assessments" which currently allows workers up to three days to visit the child.

"A growing chorus of concerns, input from our workers and key advocates, an independent evaluation, as well as our own administrative review suggests that we need to step back and review how we make decisions at the very critical front end of our system," said Kathi Way, DHS Deputy Commissioner for the Office of Children's Services, which is implementing a massive reform effort.

"In order to continue to improve the child welfare system, we need to be flexible and be willing to make adjustments in mid-stream," said Commissioner James M. Davy, of the 24-hour response time adjustment. "While we do not take this step lightly, we will always make the safety of children our first priority."

Way said DHS has been in discussions with the court-appointed Child Welfare Panel on this topic since last week and worked out the framework for the change during a lengthy meeting in Trenton yesterday. Staff was notified of the impending change today and were informed that a start date for the new policy will be established within a week to 10 days.

"The Panel supports the state's decisions and their willingness to revisit this critical aspect of the reform implementation and to make changes in response to identified problems," said Judith Meltzer, who is acting chair of the Child Welfare Panel. "The ability to make adjustments along the road to reform is absolutely vital. The state's decision to err on the side of safety and require quicker face-to-face contact with children as they review screening protocols and retrain hotline staff is a step in the right direction."

In addition to the new response time guidelines for all reports, several categories of child maltreatment allegations -- which previously could have been considered child welfare assessments will now be classified by the SCR as investigations.

In addition, allegations of any kind involving a family already known to DYFS will no longer be classified as "information and referral" and will require a face-to-face response.

The state will continue to require an immediate response on the most serious allegations involving risk to children including physical and sexual abuse.

In July, DHS completed the first full year of a multi-million dollar reform effort that has resulted in a 30 percent reduction in caseload averages statewide, an 600-home increase in resource families, a reduction of adjudicated youth in juvenile detention awaiting behavioral health placements, a dramatic expansion of community behavioral health services for children and the establishment of the state's first centrally-located child abuse reporting hotline, and a gradual phase-down of the state's only psychiatric institution for children.

The DYFS shuffle

Saturday, September 03, 2005

It's bad enough that the Division of Youth and Family Services got caught putting foster care kids through a distressing and disruptive shuffle. Worse, that shuffle was how DYFS pretended to be meeting a deadline for court-ordered reform.

Child Advocate Kevin Ryan happened to be visiting a Trenton children's shelter called Angels Wings when a DYFS caseworker showed up to remove 10-year-old twin sisters. The kids were going to be separated and placed in temporary foster homes. Each would most likely be moved again, and yet again, while caseworkers searched for a home willing to take both girls, Ryan was told.

Why not leave the twins in the shelter? Because the agency is under a court order to get kids 10 and younger out of institutions and into caring homes.

Shuffling kids from one emergency placement to another was how DYFS pretended to meet the order to de-institutionalize. Ryan learned that other children had been moved

institutional placements. Instead, DYFS chose to play like it was carrying out reform.

An embarrassed DYFS suddenly found a family friend willing to take both twins. If a good home were available, it should have been secured in the first place. If DYFS is not getting that part of its job right, there is not much hope for reform.

DYFS had planned to close Angels Wings but won't now. Continuing to use the shelters seems prudent -- as a very short-term, emergency-only solution. But the time should come when Angels Wings and other shelters aren't necessary.

"We want to make sure that we are planning properly and making sure we make the right placement for the right reason -- in the best interests of the child," the agency says now.

Lovely words. Now do it.

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Panel faults child-welfare restructuring

Legislators insist 'chaos' has resulted but DYFS officials dispute report's conclusions

September 14, 2005 BY SUSAN K. LIVIO Star-Ledger Staff

The state's effort to restructure the child welfare system has created "chaos" in the field and continues to leave workers overburdened and ill-equipped to help children, a legislative panel said yesterday.

The Staffing Outcome and Review Panel, created four years ago to monitor the operations of the Division of Youth and Family Services, concluded in its annual report that changes launched since July 2004 have failed in the most critical areas -- to retrain the work force to more thoroughly investigate abuse and neglect, and assist families in crisis.

"There has been too much bureaucracy and too little real changes in the field," said Angela Estes, the panel chairwoman who runs Robin's Nest, a south Jersey nonprofit organization that provides housing and social services to children under DYFS supervision.

"This has put some children at risk, while leaving many parents without the support they need to safely care for their own children," Estes said. "It is time to focus on the fundamentals -- staffing, services and accountability. This needs to happen right away, or our most vulnerable children will continue to be in harm's way."

The report criticized the state for failing to sufficiently reduce worker caseloads, and falling a year behind in developing a training curriculum for the caseworkers the state has hired in the last 18 months.

The report also took issue with some of the reforms, such as the closing of all specialized adoption offices in December to streamline DYFS operations. The closure took place "before a new adoption program was fully operational in the local offices, further exacerbating a high backlog of adoption cases."

DYFS officials rebuked many of the report's conclusions and accused the panel of not giving the state credit for its accomplishments since agreeing to a court-monitored overhaul of the child welfare system in 2003.

"We agree caseloads need to come down," Assistant Human Services Commissioner Edward E. Cotton said. "But there is no acknowledgment the number of caseloads are mayi come d</Acrom 1,500to c2,00Ain 28 mo osth. nOrth
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The review panel, created in 2001 to ensure DYFS was getting enough money, has 13 members representing organized labor, several state departments including Human Services (DYFS' parent agency), the Legislature, nonprofit social service agencies and the judiciary.

Members of a more powerful oversight panel, created in 2003 when the child welfare system was restructured as part of a settlement of a class action suit against the state, agreed with the report's major findings, but said they hoped support for the reform remains strong.

Judith Meltzer, a member of the court-ordered panel and deputy director of a Washington, D.C., social services think tank, said she wouldn't "quarrel with the findings. ... We think it is consistent with the our message over the last several month the state needs to prioritize its work.

"But we think it would be an enormous shame to retreat from the comprehensiveness and ambitions of the plan -- a plan that was developed with broad input from people all over the state."

Susan Lambiase, associate director of Children's Rights Inc., which brought the suit against the state, said her agency would agree the reforms "'are not happening the way they should be happening, but that's a leadership problem. It's not the reform plan that is the problem."

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DYFS reform draws stinging criticism

Influential panel cites 'seriously inadequate progress' that could result in a legal clash

September 21, 2005 BY SUSAN K. LIVIO Star-Ledger Staff

control the reform effort.

A court-appointed panel of experts says New Jersey made "seriously inadequate progress" in the first year of a \$320 million plan to reform the state's child welfare system. The panel, created by The Star-Ledger, the monitoring panel found the state is now overdue in training thousands of front-line workers at

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Child Welfare Panel says foster homes for children now stuck in detention centers, shelters and facilities outside New Jersey.

The panel said the state has not done enough to reform the system, and that the state has not done enough to reform the system. The panel that reports to the Legislature concluded the reform has prompted "chaos" among workers. The Child Welfare Panel report, however, does not mention the test of quality and its final version "the draft report by a federal judge overseeing the 2003 settlement of a lawsuit that required improvements to the child welfare system.

The draft report says the state's progress from July 2004 to July 2005 was "seriously inadequate" -- a phrase that could legally trigger a request for court intervention by Children's Rights, Inc. in New York, a national advocacy group that sued on behalf of the state's 11,600 foster children.

"Six" months ago, in our first monitoring report, we wrote that

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correction," the draft report reads. "That conclusion remains true to this additional time that has passed."

The report said top managers are not consistently "reinforcing" the vision and purpose behind the many changes, nor are they delegating responsibilities to make the reform successful.

Trenton, NJ 08625

Contact: Laurie Facciarossa

RELEASE: September 23, 2005

TRENTON -- Department of Human Services, Office of Children's Services Assistant Commissioner Edward E. Cotton, who has been instrumental in implementing the state's massive child welfare reform effort, has announced his decision to leave the agency effective November 1.

Cotton took over the helm of the OCS Division of Youth and Family Services, the state's primary child protection agency, in July 2003, shortly after the state signed an agreement to settle a class action suit that had been filed against the agency in 1999 by a New York-based child advocacy organization.

“Ed Cotton has worked tirelessly to improve the lives of countless thousands of vulnerable children and at-risk families in the state of New Jersey and is leaving behind a system that is significantly improved as a result of his efforts,” said DHS Commissioner James M. Davy.

During Cotton's tenure, the number of caseworkers assigned to DYFS increased by more than 500 to some 2,000 workers, reducing caseloads from an average of 22 families per worker to about 14.5 families per worker today.

In addition, Cotton launched the state's first 24-hour, fully-staffed, centralized child abuse reporting hotline, hired specially trained investigators to handle child abuse and neglect investigations, reduced the length of time that so-called “boarder babies” remain in hospitals awaiting foster placements, and implemented a sweeping new case practice model that emphasizes child safety and links families to needed services and supports.

“Our efforts to improve our child welfare system have benefited from Ed Cotton's knowledge of child welfare case practice as well his commitment to child safety and family stability,” said Kathi Way , OCS Deputy Commissioner.

Way said she expects to name an interim administrator for DYFS within the next two weeks and noted that the OCS is undergoing a significant restructuring as a result of input from the court-appointed Child Welfare Panel that is monitoring the state's reform efforts. Cotton will be assisting the new administrator to ensure a smooth transition. As a result of the restructuring, said Way, many of the administrative functions currently overseen by DYFS will be dispersed among other offices within OCS.

“Working as part of a team reforming New Jersey 's child welfare system has been among the most exciting and the most challenging assignments of my career and I have been honored to work with many

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<http://www.state.nj.us/humanservices/Press-2005/cotton.htm>

HERALD NEWS

the White House to reduce federal spending for Medicaid by restricting the use of Medicaid targeted case management (TCM) and rehabilitative services for children in the child welfare system. The text of these proposals can be found at <http://www.cwla.org/advocacy/nocapsonkids.htm>. TCM services ensure that children's needs are assessed, a care plan is developed, referrals are made to needed services, and care plans are monitored and services are delivered. The White House proposals suggest that Medicaid should not pay for these services because they could be paid for with other federal funds, including Title IV-E Foster Care, SSBG, and TANF, or with state or local programs. However, many states report that they do not have the state or local funds--or the use of federal funding such as SSBG or TANF--to make up for the loss of these federal Medicaid funds. States also report that the services provided by Medicaid to address the health and mental health needs of children in the child welfare system cannot be paid for with Title IV-E funds.

Congress may also consider another White House proposal to reduce the level of federal funding for TCM services to the Medicaid administrative matching rate of 50%. Currently, the federal matching rate for TCM is as high as 80% in many states. This change would start on October 1. The White House proposal also calls for a cap on Medicaid administrative expenses.

Newly released data from the Urban Institute indicate that 961,000 children enrolled in Medicaid were in foster care at some point in 2001. In that year, states spent nearly \$4 billion in Medicaid funds on children in foster care. At least \$700 million of these Medicaid funds were used to provide TCM and/or rehabilitative services. These funds are in addition to other supports such as Title IV-E Foster Care and Adoption Assistance

Adding to already tight fiscal constraints, Congress is also poised to pass another reconciliation bill that calls for \$70 billion in additional tax cuts. Committees with jurisdiction over tax issues would have to pass legislation to implement these cuts by late October or early November.

For more information, visit CWLA's No Caps on Kids! Campaign website or contact Tim Briceland-Betts, CWLA Senior Government Affairs Associate, at bricebet@cwla.org or 202-942-0256.

** Title IV-E Foster Care and Adoption assistance is currently an entitlement program, which means that it is available to anyone who meets the program's strict eligibility criteria. The federal government reimburses each state for a percentage of the overall cost of the program. A reduction, or the capping or block granting, of Title IV-E funding would reduce the federal government's commitment to share the costs of caring for these abused and neglected children. The amount of money a state would receive from the federal government would be fixed, regardless of a state's expenses, as a result of a capping or block granting Title IV-E.

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What remains unresolved, however, is how much money will go to pay the minor children's attorneys -- an issue that made settlement talks contentious for months.

Yesterday, the friction between Lowry and Human Services Commissioner James Davy went public. First Lowry said the state had "dragged its feet in agreeing to acceptable terms. We repeatedly had to threaten trial to secure an acceptable deal."

Davy angrily denied that, saying the state had offered the \$12.5 million package in March. "The one issue that held up negotiations was the plaintiffs' demand that their out-of-state attorneys get the same amount of money the boys were getting for legal fees," he said.

Davy said the law offices of Emery, Celli, Brinckerhoff & Abady of New York anticipated getting a one-fourth share of the three younger boys' \$7.5 million award.

In the agreement signed yesterday, the parties left it to U.S. Magistrate Joel Rosen in Camden to decide how money the attorneys should be compensated. But Davy said the state will challenge any award it deems unfair. Joel Ros

State opts for 1 person to monitor overhaul

BY SUSAN K. LIVIO October 08, 2005 Star-Ledger Staff

State officials have decided to dump a court-appointed child welfare oversight panel that has consistently criticized New Jersey's overhaul of its troubled system to protect children from abuse and neglect.

State Human Services Commissioner James Davy yesterday informed the New Jersey Child Welfare Panel that it will be out of business once its contract expires Dec. 18. The move comes just days before the panel is expected to give New Jersey a lousy progress report on its \$320 million reform effort.

Davy had the option to extend the contract with the panel of national experts, assigned by a federal judge to monitor the state's reform of the child welfare system as part of a lawsuit settlement. But in a letter obtained by The Star-Ledger, Attorney General Peter Harvey, acting on Davy's behalf, essentially says thanks, but no thanks.

"The Department greatly appreciates the Panel's assistance during the planning phase and the initial 18-month monitoring phase," Harvey's letter said.

Instead, the state will exercise its option to replace the panel with a single monitor that will be chosen jointly by the Human Services commissioner and Children's Rights Inc. of New York, the advocacy group whose civil rights lawsuit against New Jersey's child welfare system forced the court-monitored overhaul.

The state's decision will end an arrangement that has been increasingly contentious since the spring, when the panel stepped up its criticism of the state's work. The panel began monitoring the state's work in July 2004.

The panel's first progress report in March said the state's effort to fix its failing child welfare system required a "significant course correction" to get it moving in the right direction. In July, the panel refused to give Davy a reprieve from a June 30 deadline to complete a series of changes, which includes reducing worker caseloads, improving worker training, and moving children out of detention centers and shelters who belong in foster care or a mental health treatment facility.

On Tuesday, the report the panel is scheduled to present to U.S. District Judge Stanley R. Chesler in Trenton is expected to be the most critical to date, saying New Jersey has made inadequate progress since the overhaul began in July 2004. It may open the door to allow Children's Rights to ask the judge to intervene.

Children's Rights Associate Director Susan Lambiase said her organization doesn't agree with the state's decision to disband the panel.

"The panel has been serving a valuable role, and we prefer the panel stay on rather than start with someone new," she said.

Laurie Facciarossa, Davy's spokeswoman said, "From the state's perspective, it makes more sense to work with one person. There is a clarity of direction you get from a single individual as opposed to different opinions you get with five individuals. Our understanding is single monitors have worked out well in other states."

Facciarossa said she was surprised to hear Children's Rights criticize the state's decision. "They never told us it would be disruptive," she said. "They suggested the name of an independent monitor," whom Facciarossa declined to identify.

Lambiase said their first option was to keep the panel, and declined to reveal any details from confidential negotiations. "There is no name on the record currently that both sides have agreed on," she said.

Panel Chairman Steven Cohen could not be reached for comment last night.

It is no secret among state child welfare officials there is a strained relationship between state officials and the court panel, which serves as both the state's adviser and monitor. Closed door meetings have degenerated into shouting sessions, they say.

The souring relationship was demonstrated in a letter Cohen sent to Davy in July over a dispute about the panel's interest in hiring a new technical advisory team Davy did not want.

"Disagreements between the state and the panel are to be expected; they are inevitable in a relationship of this kind," Cohen wrote. "What distresses us so -- and what none of us has experienced before, in many years of work in equally intense efforts across many jurisdictions -- is an effort of this kind to discredit not only the panel's integrity but other good and conscientious people and organizations who are willing to engage in this difficult work in the public interest."

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Child advocacy group wants faster progress on DYFS reform

By GEOFF MULVIHILL The Associated Press 10/11/2005,

effort midstream."

The report, which found faults ranging from how child-welfare workers are trained to how well policy changes are communicated through the agency, also found the agency had improved on many fronts. It has hired hundreds of caseworkers, reduced caseloads and started a telephone hot line for child-abuse complaints.

However, the report found "significantly inadequate progress" in 14 areas among dozens it covered.

Brand said that some of those were reporting problems that will be fixed when the agency switches to a better computer system and that others have already been fixed or in the process of being fixed.

"Just one year into our effort, we are well on our way," Davy said.

Judge Chesler praised the efforts made by the state so far and said he is awaiting the next progress report, expected in February or March. He said he would prefer not to see more litigation over the reforms.

Lowry stopped short of saying she specifically wanted Davy out. "The issues really go beyond any one person," she said, adding that the mediation should be focused on broad issues rather than only the details of the reforms

"The concern is that the state has had a number of plans on paper, some of which have looked OK, some of which have not," she said. "We have lost faith in their ability to implement our plan in a constructive way.

Children's Rights has pressed for years to have the child welfare agency separated from Human Services, saying that the bigger agency has too many layers of bureaucracy.

Human Services officials have said it makes sense to have the agency be part of a larger one because it can get more federal funding that way and more easily share resources with other parts of the agency, including the arm that administers Medicaid.

Kevin Ryan, the state child advocate, said the child welfare system could be improved or flounder under either structure.

A change in direction could be imminent anyway with a governor's election only three weeks away.

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The panel's second monitoring report may be found at:

http://www.aecf.org/njpanel/NJ_Monitoring_Report_II.pdf

DYFS gets last chance to fend off federal takeover

Fearing state cannot guard the kids in its care, watchdog steps in

BY SUSAN K. LIVIO Star-Ledger Staff October 12, 2005

A national child advocacy group set the stage for a possible federal takeover of the state's child welfare system yesterday, telling a judge it has lost confidence in the state's ability to protect more than 11,000 of its most vulnerable children.

Armed with an expert panel's report saying the state had made "seriously inadequate progress" in the first year of a court-ordered reform, Children's Rights Inc. ordered a 10-day mediation process that gives the Department of Human Services one more chance to defend how it is implementing the \$320 million reform.

If the mediation fails, Children's Rights could ask U.S. District Court Judge Stanley Chesler in Trenton to declare the state is not doing the job and appoint a special master or receiver to take control of children's services from Human Services Commissioner James Davy.

"We know it's a drastic step, but the children we represent have suffered long enough," said Children's Rights Associate Director Susan Lambiase. "We've lost confidence in the state's ability to get the job done."

Children's Rights' decision to call for mediation -- allowed under the court settlement of a lawsuit on behalf of foster children -- stunned state officials.

After the hearing, Davy predicted mediation would "detract from the reform and detract from children." He also called the maneuver "a little overly dramatic" and accused Children's Rights of "playing to the audience" -- more than a dozen news organizations that attended the hearing.

Dropping a phone book-sized notice of filing on the table where Davy and other state officials sat in court, Lambiase served the state with legal notice she was invoking emergency mediation because the expert panel's report suggested children under the care of the Division of Youth and Family Services are at risk.

The New Jersey Child Welfare Panel, the same group that yesterday issued the report criticizing the state's reform effort, will serve as mediator. Citing statistics from the panel report, Lambiase said only 24 percent of foster children get the required monthly visit from their caseworker, and the number of children who live in shelters remains unchanged a year later at 400.

"Our clients -- the children who are entitled to these reforms -- need to be regularly visited by their caseworkers," Lambiase said. "They need medical services on a timely basis. They need to live with families and not institutions. They need to live close to their families and not out-of-state."

A request by Children's Rights to declare that the state was failing would prompt a trial. Chesler, who approved a class-action lawsuit settlement two years ago on behalf of the 11,000 children in foster care, also has the option to order the state to make changes rather than taking the more drastic step of appointing someone else to take over the child welfare system.

Chesler said he remained convinced the overhaul of DYFS could succeed. He called the panel's report both a "report card" and "constructive criticism" that should help guide the massive overhaul.

But he also issued a terse warning: "If we are back litigating this reform plan in this court, with lawyers on both sides trying to persuade me about various facts one way or another, I will tell you ladies and gentlemen, you will have failed."

"If I have to reach that point, I will," Chesler added. "I am personally committed to do everything to make this plan a success."

Davy vigorously argued the \$320 million reform effort has already benefited kids.

"Reading this report would suggest things are worse than ever. It's easy to forget where we were before this reform began," Davy said.

The commissioner said the state has hired 600 more front-line caseworkers, and relatives who act as foster parents now get the same monthly stipend foster parents receive. He also noted that juvenile detention centers no longer house teenagers who belong in foster homes or group facilities. Last year, 200 such teens were in the detention centers.

The Child Welfare Panel's assessment of the state's performance, however, took sharp aim at the quality of leadership, without naming Davy and his deputy in charge of Children's Services, Kathi Way. Its 89-page report said upper-level

"The children deserve more than they have gotten," Susan Lambiase, associate director of Children's Rights, said in court. "A lot of time and money has been spent. The state is unable to do the job the children need and deserve without a major course correction that just hasn't come."

The report was the second of three periodic evaluations of the state's efforts to revamp its child welfare agency. In the two years since agreeing to sweeping changes, the state has poured more than \$300 million into the effort.

Throughout the 89-page report, members of the panel go to great pains to detail the modest but measurable ways in which the system has improved, including the hiring of 600 caseworkers and the end of the longstanding practice of warehousing mentally ill foster children in detention centers.

But in other areas, like eliminating excessive worker caseloads and putting new training techniques in place, the report concluded that the state's performance has been lacking. The panel found that the state had made "seriously inadequate progress" in 14 key areas, taking no action in addressing some problems while doing too little to resolve others.

"As a result," the panel wrote, "the overall progress of the reform effort is considerably less than the court and the citizens of New Jersey could reasonably have expected."

Of 909 children placed with foster families from April to June of this year, only 260 - or 29 percent - of those who should have received medical exams did so, the panel found.

That figure was particularly alarming in light of the case of the Jackson siblings, four adopted brothers who two years ago were found to have been starved for 13 years. The boys were supposed to be monitored by the state and yet none had made regular doctor's visits. This month, the state settled a lawsuit filed on the boys' behalf for \$12.5 million.

"One of the areas that I'm most concerned about is the fact that there remains an insufficient safety net for children with health care needs in this system," said Kevin M. Ryan, the state's child advocate. He added, "It remains possible today that there are children in the child protection system whose imminent medical needs are not being addressed."

The panel also pointed to the slowness of adoption as a

New Jersey has not been timely, save in a few cases, in the process of adopting private system's children. /Span<</ActualText<FEFF000A>>

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Other possibilities, she said, included the state appointing experts to address areas of particular concern or elevating child welfare to a separate cabinet-level agency in the hierarchy of state government.

During Tuesday morning's hearing, Judge Chesler said that the state had reached "a critical point in this reform plan." He said that arguing the case in court would mean that two years of hard work and taxpayers' money would have been wasted.

"If we get to the point where, in fact, we are litigating this reform plan, what I will tell you ladies and gentlemen is that you will have failed," he said. "If I have to reach that point, I will."

Judge Chesler said that he believed the report left room for the state to fulfill its pledge to make reforms. He said he looked forward to the panel's third and final report in December, after which the state - which has had a contentious relationship with the panel in recent months - will ask that the group be disbanded and a single monitor be appointed. The panel was formed shortly after the 2003 settlement and has been monitoring the state's progress for about a year.

"The report does not challenge the commitment of the commissioner or the department to achieving reform," he said. "It does not brand the reform effort as a total failure."

The panel was sharply critical of the system's leaders, saying they have not done a consistent job of helping front-line workers understand the most basic components of the reform effort. Last month, Edward E. Cotton, the division's leader, announced his resignation.

"The panel came down hard in its report about leadership and organizational issues that seem to be completely undermining the reform effort," said Ms. Lambiase. "And we don't want this effort to be wasted. We think the job can get done, but the clock is ticking, and time is running out."

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Lambiase

Lambiase

The oversight panel chaired by Steven D. Cohen of the Annie E. Casey Foundation would serve as mediator.

The problems with the state's progress cited by the panel include:

Caseworkers not seeing children under the system's purview often enough.

Sending children out of state for care.

Putting youngsters in institutions.

Leaving children in shelters.

Failing to provide adequate medical care to children.

"We have lost confidence in the state's ability to get the job done," said Susan Lambiase, associate director of Children's Rights.

The practices of sending children out of state, putting children younger than 6 in institutions, and leaving them in shelters were all supposed to stop, under the plan.

Children's Rights' posture and legal maneuver mark a dramatic shift from sentiments expressed after the 2003 settlement of its is.

Cohen, the panel chairman, acknowledged that the state has made significant progress in many areas, including increasing its staff, recruiting more foster families, and securing more than \$200 million in extra funding.

"The work of repairing a system of this size is difficult," Cohen said. But, he noted, the momentum and support for the overhaul are flagging and the state is experiencing "a significant amount of disorder in the field."

"The plan that New Jersey put together is an ambitious one," Cohen said. "It is inevitable in the course of implementation some things will turn out to be hard to do. The fact that something is hard to do should not mean the state retreats from it."

He added: "The leadership has not been successful to date."

Fellow panel member Judith Meltzer pointed out that state officials had agreed to the plan and could not claim that anyone had imposed the terms of it upon them.

Kevin Ryan, director of the state's independent Office of the Child Advocate, said that if Chesler is forced to intervene, he could put the child welfare system in the hands of an outside party, have its operations be reported to a special master, or dictate progress that must be made at the risk of penalty.

It is clear, he said, that the panel has played a valuable role and its findings show that the overhaul effort requires a "course correction." That should involve some change to the bureaucracy, including creating a separate children's services department that reports directly to the governor.

Human Services "remains a very complicated bureaucracy," Ryan said.

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Statement by Commissioner James Davy in Federal District Court on October 11, 2005:

<http://www.state.nj.us/humanservices/Press-2005/CommissionerDavyRemarkst.pdf>