



Department of the Public Advocate

A Voice for the People

2008 Annual Report



Assisting our
most vulner-
able citizens



Advancing
good public
policy



Fostering more
responsive
government



Guarding the
interests of
ratepayers



Protecting
the rights of
tenants during
foreclosure



Preventing
childhood
lead poisoning



Reforming
redevelopment



Promoting positive
change for children

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A Voice for the People

The Department of the Public Advocate is charged with making government more accountable and responsive to the needs of New Jersey residents, especially our most vulnerable citizens.

The Public Advocate's mission is to act as a voice for the people on a range of critical issues. This is accomplished through many avenues: policy research and reform, investigation of abuse and neglect, community partnerships, legal advocacy, legislative and regulatory action, education and outreach.

The Public Advocate works both inside and outside state government to protect the interests of the public, with a special focus on the elderly, people with mental illness or developmental disabilities, consumers and children.

Originally formed in 1974 under then Gov. Brendan T. Byrne, the Department was dissolved in 1994. After years of vigorous advocacy by a broad coalition of New Jersey citizens, the New Jersey Legislature adopted the Public Advocate Restoration Act in 2005 with the leadership of Senators Joseph F. Vitale and Robert J. Martin and Assemblymen Wilfredo Caraballo, John J. Burzichelli, Alfred E. Steele and Mims Hackett Jr. On July 12, 2005, Governor Richard Codey signed the bill into law.

In 2006, Governor Jon Corzine inaugurated the new Department with the appointment of Ronald K. Chen to serve as the first Public Advocate in New Jersey in nearly 12 years.



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1

Protecting the Rights of Tenants During Foreclosure

Seeking to protect the unseen victims of the foreclosure crisis, the Public Advocate has begun a campaign to safeguard the rights of residential tenants not to be displaced from foreclosed properties. Responding to complaints from tenants and concerns raised by housing advocates, we have undertaken to ensure that the wave of foreclosures does not engulf tenants who are entitled to remain in their homes under New Jersey's strong tenant protection laws.

With only narrow exceptions, the New Jersey Anti-Eviction Act protects tenants against eviction from their homes so long as they pay the rent, respect the peace and quiet of their neighbors, avoid willful or grossly negligent damage to the property, and obey the reasonable rules they have agreed to in writing. In *Chase Manhattan Bank v. Josephson*, a case litigated by this Department in 1994, the New Jersey Supreme Court held that a tenant who lives in a residential property that is covered by the Anti-Eviction Act remains protected by the Act after the property is sold to the bank or another buyer through foreclosure. As the Court emphasized, the Act protects tenants "from having to confront the devastating effects of eviction not through any fault of their own but merely because they had rented property from landlords that were either unwilling or unable to meet their mortgage obligations."

Moreover, the Unlawful Eviction Act, enacted in 2006, makes it a disorderly persons offense (or an indictable crime if an individual is convicted more than once within five years) for a person, after having been warned by a law enforcement officer or other public official, to attempt to evict a tenant by any means other than the lawful execution of a valid court order. If the landlord is in possession of a court-issued

"Execution of Warrant" for possession of the premises, the eviction is lawful. Under any other circumstance, the eviction is not lawful. Among the means specifically banned by the statute (beyond the obvious threats and violence) are words, circumstances or actions that have a clear intention to incite fear in the tenant; removing the personal effects or furniture of the tenants from their home; padlocking or otherwise changing locks to the property; or

shutting off, or causing to be shut off, vital services such as heat, electricity, or water, in an effort to regain possession. If an unlawful eviction has occurred, law enforcement officers and public officials are responsible for preventing the owner or any other person from obstructing the tenant from moving back in.

Despite these safeguards, many tenants are being pressured to leave their homes. After lenders acquire properties through foreclo-



sure, they hire agents – usually real estate professionals, asset/property managers, and attorneys – who contact tenants in an effort to get them to leave.

These agents sometimes threaten eviction and offer tenants a “cash for keys” settlement (if they leave they will get money; the sooner they leave the more money they will get). During this process, lenders and their agents generally fail to mention a critical piece of information: with limited exceptions, tenants have the legal right to remain in their homes. These misleading pressure tactics often cause tenants to move out. Without real resources or a full understanding of their legal rights, tenants find another apartment, move in with family or friends, or, when no other options are available, become homeless.



Public Advocate Ronald Chen with DOBI Commissioner Steven Goldman, warns real estate licensees and attorneys about misleading tenants into moving solely because the property is in foreclosure or has been foreclosed.

In collaboration with the Department of Banking and Insurance (DOBI), the Real Estate Commission, and nonprofit organizations, in late 2008 the Public Advocate began an outreach campaign to educate tenants, lenders, lenders’ agents, local public officials, and local law enforcement about this issue. The Public Advocate held a press conference on December 23, 2008, in Newark with DOBI’s Commissioner Goldman, local leaders, and our nonprofit partners.

The press conference generated significant coverage by the electronic media, including radio and television stations throughout New Jersey. The event also generated coverage in most of the state’s major daily newspapers. In January 2009, Public Advocate Chen published an article in the *New Jersey Law Journal* about the role that lawyers can play to ensure tenants’ rights during foreclosures. A consumer-directed guest editorial on the issue was marketed to daily newspapers in February. All of these efforts aim to get the word out about the issue and let people know that we and our partners are here to help.

During the first three months of 2009, we distributed more than 13,000 English and Spanish informational brochures to tenants, nonprofits, and government agencies across the State.

In addition, during the first three months of 2009, we distributed more than 13,000 English and Spanish informational brochures to tenants, nonprofits, and government agencies across the State. The brochures outline the rights of tenants who live in foreclosed properties.

This outreach has spurred additional calls to the Department’s Office of Citizen Relations (OCR), which handles citizen concerns and complaints. During the first quarter of 2009, OCR received 72 calls for assistance, referring 36 for specific services from others, reviewing and closing 21 cases, and continuing to assist 15 households, including two who are receiving direct legal representation by the Department’s Division of Public Interest Advocacy. In the open cases, we are assisting tenants in staying in their homes or in making favorable arrangements to move elsewhere if that is the tenant’s choice.

When a preliminary investigation reveals that real estate professionals, asset managers, or attorneys are sending misleading notices, the Public Advocate contacts them, warns them in writing of the unlawful na-

ture of their actions, and sends the relevant information to the regulating agency, for example, the Real Estate Commission. The Real Estate Commission has been extremely collaborative in undertaking investigations of possible misconduct by real estate licensees. In addition, we have written to the CEOs of the major real estate companies in New Jersey suggesting model language for accurate notices to tenants during and following a foreclosure proceeding. Likewise, we have been in touch with several of the law firms that specialize in representing lenders in foreclosure and eviction proceedings and plan to work with the state bar association to educate attorneys about how best to interact with residential tenants in these circumstances. The materials we have prepared include a model letter that would accurately inform tenants of their rights.

In addition to working closely with the tenants who contact us to ensure that they are not improperly removed from their homes, the Public Advocate is working with its partners in state and local government to identify strategies to hold lenders and their agents accountable when they violate New Jersey law. During the first quarter of 2009, the Department sent letters explaining the rights of tenants and the obligations of public officials to: the mayor and chief of police of every municipality, county prosecutors, sheriffs, freeholders, and state legislators. In addition, the Department participates in the Essex-Newark Foreclosure Taskforce and the newer Union County Foreclosure Taskforce, in which the local governments bring together all advocates and government agencies working on foreclosure-related issues to share information and strategies for easing the crisis.

We have also conferred with the Department of Law and Public Safety about how best to reinforce local law enforcement in handling unlawful evictions and with the Division of Consumer Affairs about potential remedies under the Consumer Fraud Act. When we learned that the Department of Community Affairs Landlord Tenant Information Service had updated its bulletin on the rights of tenants during foreclosure, we created links to that resource on our

website. And we are collaborating with the Administrative Office of the Courts on a potential court rule to fill the tenant information gap prospectively and consistently.

Foreclosure Alone Is Not Grounds for Eviction

Residential tenants in New Jersey cannot be evicted solely because the property where they live is in foreclosure or has been foreclosed.

In general, New Jersey law protects tenants against eviction from their homes so long as they:

- pay the rent,
- respect the peace and quiet of their neighbors,
- avoid willful or grossly negligent damage to the property, and
- obey the reasonable rules they have agreed to in writing.

The laws protecting tenants from eviction apply throughout foreclosure proceedings and continue to have effect even after a new owner buys the property.



If you feel that you are at risk of being evicted from your rental home because of a foreclosure, please contact:

**Department of the Public Advocate
Office of Citizen Relations
609-826-5070**

2 Preventing Childhood Lead Poisoning

In April 2008, the Public Advocate unveiled the results of a year-long investigation that uncovered significant problems in the systems designed to protect New Jersey children from lead poisoning. Since the signing of Governor Corzine's Executive Order #100 on April 29, 2008, and the release of the Department's report, *Getting the Lead Out: The Childhood Lead Poisoning Crisis in New Jersey*, state agencies and city officials have taken significant steps to better protect children from lead hazards. They have also partnered with community organizations and local health centers and hospitals to address the unacceptably high rate of lead poisoning in New Jersey.

Implementing Executive Order #100

Governor Corzine's Executive Order mandated that State agencies take 22 steps to address identified deficiencies in the State's lead poisoning response and prevention system. The Executive Order has resulted in a number of significant advances across five State agencies.

For example, the Department of Health and Senior Services (DHSS) created and distributed to cities GIS maps that identify census tracts with low blood lead screening rates and high incidences of lead poisoning. Cit-

ies can use these maps to target their screening efforts to reach the children most at risk. DHSS also gave a full day of lead training to 110 members of the Department of Children

and Families' (DCF) inspection staff. The purpose of the training was to equip DCF staff to identify lead hazards in potential foster homes, also known as resource family homes. DCF also worked with Foster and Adoptive Family Services to update a lead education course for resource family parents.

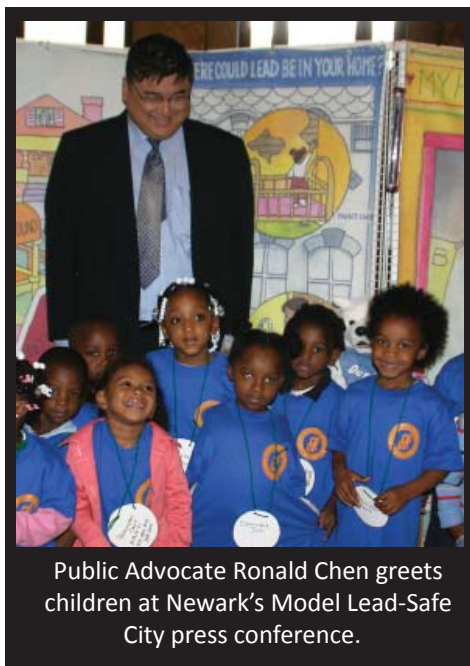
DHSS created and the Department of Education sent out to school districts for distribution to parents a two-page informational flyer on lead poisoning.

To address the problem of the sequential poisoning of children in different units of a multi-unit dwelling, DHSS created a two-page hand-out that can be posted after one child in a building is poisoned. This hand-out notes that a unit in the building has been identified as having dangerous levels of lead dust, informs parents how to protect their children from becoming poisoned, and explains where parents can get their children tested. DHSS also worked with the Department of Human Services (DHS) to ensure that the State's labs include a child's Medicaid number, when applicable, on all blood lead analysis reports. Finally, thanks to DHSS's efforts, the New Jersey Immunization Information System database is now



being updated on a weekly basis to reflect newly reported blood lead results.

The Department of Community Affairs (DCA), for its part, adopted rule changes that prohibit an abater—who is supposed to remove lead hazards from a home—and a clearance inspector—who is supposed to check the abater's work and make sure the home is safe—from being from the same firm. DCA also updated its list of qualified abatements, revoked the license of an abater whose shoddy work practices DPA had brought to the agency's attention, and fined a clearance inspector who had cleared a home that still had lead hazards. Finally, many homeowners had complained about the length and complexity of the Lead Hazard Control Act ("LHCA") application, a form that needs to be filled out to obtain monies for lead abatement. In response, DCA awarded nearly one million dollars to regional coalitions to help residents fill out LHCA forms, and DPA has drafted for DCA's review a shortened and user-friendly LHCA application.



Public Advocate Ronald Chen greets children at Newark's Model Lead-Safe City press conference.

Model Cities have made significant advances. For example, Camden has passed an ordinance that requires a lead inspection before a certificate of occupancy will be granted; Elizabeth is partnering with the Seton Hall College of Nursing to offer lead screenings at day care centers; East Orange has revised its School Record form to include a space for lead screening results, with the result that parents and

medical providers filling out the form are reminded of the need to screen; Irvington has taken the lead to research and explore primary prevention through the development of a model ordinance, with the help of Rutgers-Newark School of Law; Hackensack has been working with local faith-based organizations to promote lead education awareness and screening; Newark has re-worked its contract with abatements to tighten loopholes; Paterson is making home test kits available to all residents in multi-unit dwellings and then inspecting those residences where test results show the possibility of a lead hazard;

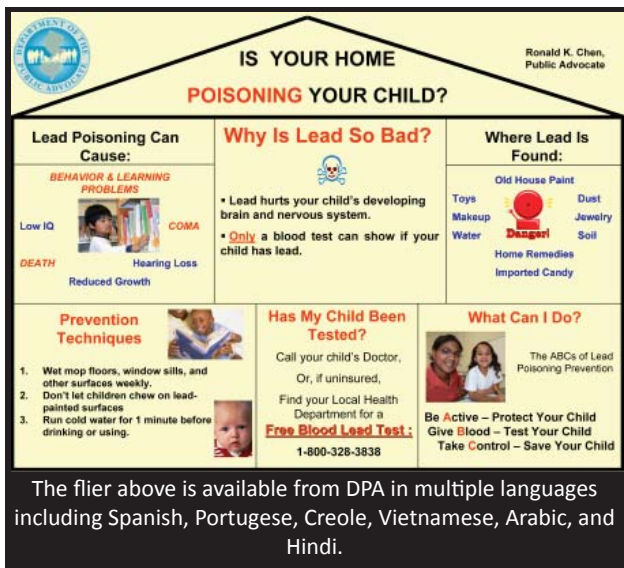
and Long Branch and Asbury Park, new to the Model City Program, are exploring issues surrounding lead-contaminated products in bodegas.

Launching the Model Lead-Safe Cities Program

Recognizing that municipalities are on the front line of lead poisoning response and prevention efforts, DPA developed the Model Lead-Safe Cities Program. This Program highlights innovative lead practices that the cities are already doing and works with the cities on undertaking new response and prevention efforts.

Currently Asbury Park, Camden, East Orange, Elizabeth, Hackensack, Irvington, Long Branch, Newark, and Paterson have signed Model City agreements. These nine

The Model Cities have become focal points for many positive public and private efforts to combat lead poisoning. For example, the Office of the Child Advocate (OCA) has reached out to community-based organizations to encourage them to help the Model Cities with lead education and screening efforts. DHSS has paid for lead inspector/risk assessor training for a total of seventeen employees from the Model Cities. UMDNJ conducted this training for a discounted price. DPA has also provided technical and legal support to Model Cities to apply to DCA for grants for XRF lead detection guns.



Private entities involved in efforts to end lead poisoning have also offered vital support to the Model Cities. The Magellan Biosciences Company owns Lead Care II, a blood screening device. By allowing a blood test to be performed in a non-laboratory setting and providing immediate results, this device overcomes socio-economic and logistical barriers such as lack of transportation, inflexible work schedules, and changes of address that currently impede confirmatory testing, effective education concerning how to limit further lead exposure, and appropriate follow-up care. Magellan has agreed to exchange five of DHSS's outdated screening devices for new Lead Care II models at no cost and to provide these new machines to the Model Cities for use. In addition, a paint manufacturing firm has also taken an interest in the Model Cities and would like to conduct a pilot lead poisoning prevention program in select Cities that would target areas with old housing and high poisoning rates. Finally, a private firm that has two patents pending on a screening device that does not require a blood draw has expressed an interest in conducting a demonstration project in the Model Cities.

Local Cooperation is Key

DPA has also been working cooperatively with other municipalities, government entities, and residents.

Here are several examples:

- DPA helped Morristown resolve several lead-related issues, including intervening on behalf of a family threatened with homelessness because of a dilatory abater.
- The Department also coordinated with the Princeton, Maplewood, and Monmouth County health departments to promote their lead-inspection-on-demand programs.
- In August, DPA partnered with the Office of the Child Advocate, the Attorney General, the Gloucester County Health Department, DHSS, and UMDNJ to provide free lead screening for children who were enrolled or adults who worked at the Children's First Learning Center in Mantua. The owner had falsified a lead inspection report to make her day care center appear to be lead free when in fact there were several lead hazards.
- We helped to resolve several cases where owners, tenants, and abaters were at odds over the sufficiency of lead abatements and clearance inspections.
- The Public Advocate co-authored with the Mayor of East Orange an article on best practices in lead poisoning response and prevention for the League of Municipalities' magazine.
- The Public Advocate authored an article at the behest of the journal *MDAdvisor* on the neuro-developmental damage that lead poisoning causes and the role the medical community can play to prevent lead exposure, screening for lead poisoning, and monitoring the sometimes delayed effects that emerge as lead poisoned children go through various developmental stages.

3 Reforming Redevelopment

The Public Advocate began this project in 2006 in response to public concerns about how New Jersey towns were conducting redevelopment and using eminent domain to take property and transfer it from one private owner to another. From the outset, the Department identified three top priorities for reform:

- limiting eminent domain for private redevelopment to truly blighted areas, as the State Constitution requires;
- making the redevelopment process fair and transparent so people receive clear notice and have a meaningful chance to defend their rights in court; and
- providing adequate compensation and relocation assistance so families who lose their homes can rent or buy safe, sound, and comparable replacement housing in their own communities.

By the end of 2008, the Department had made real progress on the first two of our stated goals. We continue to pursue the third.



Protecting Non-Blighted Property

The New Jersey Supreme Court's landmark 2007 decision in *Gallenthin Realty Development, Inc. v. Borough of Paulsboro*, reining in the overbroad definition of "blight" in the Local Redevelopment and Housing Law, has had widespread impact. We participated in the Paulsboro case as a friend of the court, arguing for the reassertion of constitutional limitations on the

areas that could be designated for redevelopment. The Court responded forcefully, holding that under the New Jersey Constitution, the government may not designate private property for redevelopment unless it is "blighted," that is, marked by "deterioration or stagnation that has a decadent effect on surrounding property."

Relying heavily on the *Paulsboro* decision, courts have overturned inadequate blight designations in at least eight cases arising in six municipalities, including Belmar (two cases), Hackensack, Lodi, Long Branch, Maplewood, and Newark (two cases). We participated in two of these cases. In 2007, we helped to protect the residents of adjoining trailer parks in Lodi that provide scarce affordable housing in Bergen County. After helping the residents to win their case, we received this 2008 holiday greeting from the chief organizer of the Save Our Homes association there:

“[W]ith your help, we’ve been living in peaceful coexistence with [L]odi town gov’t since our case was decided.

[T]hanks for your continuing efforts to really ‘stick up for the little guy’ [and] to be a real public advocate.”

Our efforts in Long Branch are headed toward a similar resolution. In 2008, we argued in the Appellate Division on behalf of the longtime residents of a four-square-block neighborhood who found themselves at the eye of the nationwide eminent domain controversy when the City tried to take their older, but snug and well-kept seaside homes. On August 7, 2008, the Appellate Division rejected the redevelopment designation, holding that “the record lacked substantial evidence that could have supported the New Jersey Constitution’s standard for finding blight.” The case was sent back to the trial court, and the City and the residents have since entered into mediation. The City has publicly stated that it is considering abandoning its plan to use eminent domain in this area. If it in fact commits to this course, residents who have long fought for their homes will be able to keep them.



Ensuring Fairness

In February 2008, the Appellate Division decided *Harrison Redevelopment Agency v. DeRose*. Adopting arguments the Public Advocate had advanced, the court held that business owners were entitled to clear notice and a fair hearing before the municipality could take their property for redevelopment. The court described the elements of constitutionally sufficient notice: it must inform the owner that (1) his or her property has been designated for redevelopment, (2) this designation authorizes the mu-

nicipality to take the property against the owner’s will, and (3) the owner has forty-five days to challenge the designation in Superior Court. Only owners who receive – and ignore – such a notice may lose the right to challenge a blight designation, and even in such cases, the courts may extend the time to file a challenge “in the interest of justice.” The court thus reinforced the constitutional principle that the “government has an overriding obligation to deal forthrightly and fairly with property owners.”

The court held that business owners were entitled to clear notice and a fair hearing before the municipality could take their property for redevelopment.

This decision, too, has had far-reaching impact. Attorneys in the Department have presented throughout the year at forums for the redevelopment bar to explain the holding in *Harrison* and what it means for municipalities, developers, and property owners. The decision has effected a sea change in the kinds of notices the municipalities send to owners in redevelopment areas. And the courts have continued to enforce the ruling, with the Appellate Division deciding at the end of December that a property owner’s belated challenge to a blight designation in Jersey City could proceed because he had not earlier received notice sufficient to advise him of his right to file such a challenge.

Making the Case for Fair Compensation and Relocation Assistance

In 2008, we completed our investigation of the redevelopment of Mount Holly Gardens, a diverse and affordable residential neighborhood built in the 1950s that once included more than 350 attached, garden-style units. The Public Advocate launched the investigation with a public hearing in December 2007, in which dozens of residents spoke about the impact the redevelopment has had on their lives and their community. (A video excerpted from this hearing is on our website). The Depart-

ment followed up by meeting with local officials from the Township of Mount Holly, reviewing thousands of documents, and interviewing dozens of present and former residents of the Gardens.



More than 100 people attended DPA's public hearing regarding the impact redevelopment has had on the residents of the Gardens.

This investigation culminated in a report, *Evicted from the American Dream: The Redevelopment of Mount Holly Gardens*, released on November 17, 2008. The report describes the gradual "dispersal and partial destruction of the existing community" following a redevelopment designation in 2002. Since then, the Township has purchased more than 200 of the units without resorting to condemnation. But the threat of eminent domain has hung over the community for years, and many landlords and some homeowners sold their houses with the understanding that the Township intended to take them, by eminent domain if necessary.

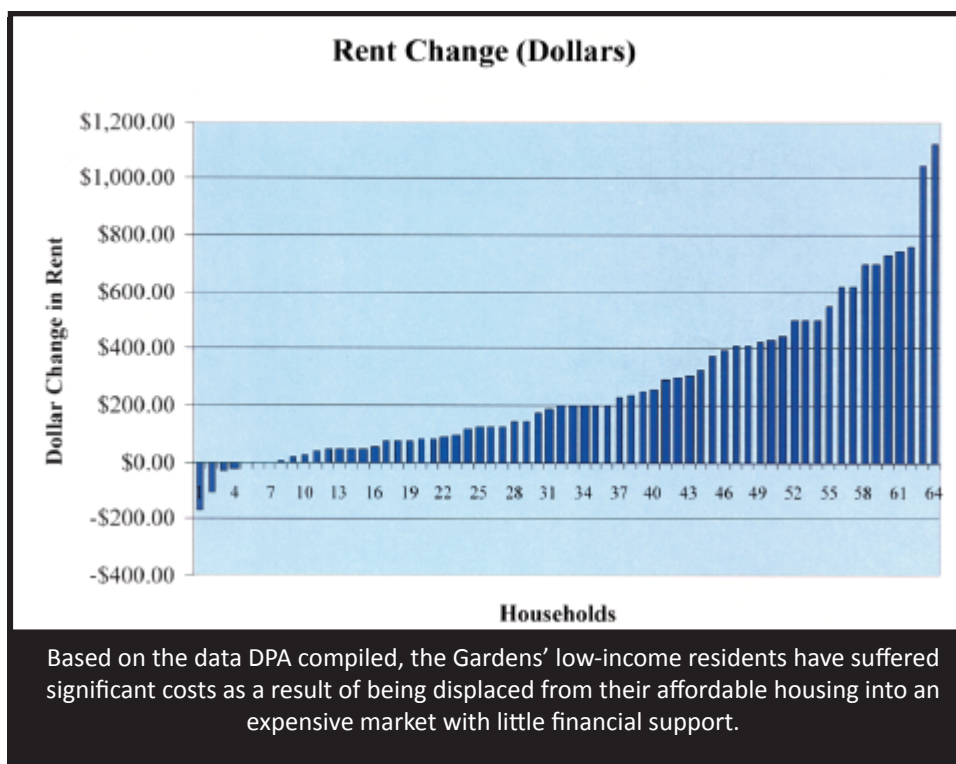
The report concludes that the redevelopment proceeded without adequate regard for the welfare of the families who lived in the area the Township had deemed blighted and who should by rights have been the first to benefit from its planned revitalization. Instead, the residents tended to become collateral damage of the redevelopment process. The report shows significant gaps in the state laws governing financial compensation for people whose homes are taken to make room for private redevelopment. The local government can offer scant relocation assistance to low-income families who rent their homes in redevelopment ar-

reas, and can even deny relocation assistance altogether to residents it does not consider technically eligible. The municipality can offer homeowners far less money than it costs to replace the home they would lose to the redevelopment.

The first duty of any local government is to its existing residents. Statutory reform is necessary to reconcile the laws governing compensation and relocation assistance with the overriding principle that the costs to redevelop a community should not be borne by those who can least afford it.

The report makes these principal findings:

- When homeowners are displaced, they are not getting enough money to allow them to purchase comparable homes in the same municipality, or even the region. A Mount Holly Gardens family who owned the largest three-bedroom unit received a maximum of \$84,000: \$49,000 for the sale of the property at the Township's appraised value, \$15,000 in relocation assistance, and possibly a \$20,000 interest-free loan to be repaid upon the sale of the replacement house.
- Even this – the most generous compensation package offered – is not enough to buy a replacement property in Mount Holly, where the average sale price for a house last year was more than \$206,000. Senior citizens are hit particularly hard. Many of them have lived in their homes for decades, and their mortgages are paid. They live on fixed incomes and cannot assume new debt.
- Tenants also end up worse off. Displaced tenants have relocated to housing that rents, on average, for almost 40% more than the homes they left. To those it deemed eligible, the township paid \$7500 in rental assistance, almost twice the \$4000 required by a law that has not been updated since 1972. Yet even this enhanced assistance was insufficient, covering less than 60% of the average rental increase, and only for a period of four years.



- The law gives the municipality exclusive authority to trigger a household's eligibility for relocation assistance, depriving the residents of control over when they leave an area that may have become a construction zone. In Mount Holly, the township did not begin offering such assistance until late 2006, by which time dozens of rental families had already left the Gardens with no financial assistance at all.
- Those who remain have watched the neighborhood empty and come down around them. By November 2008, the Township had demolished more than seventy of the units it purchased and had boarded up and left vacant many of the others. Approximately two-thirds of the housing units in the Gardens were empty. As deteriorating conditions intensify the pressure to leave, the remaining residents have no effective means to demand more adequate compensation and financial assistance when they are ready to go.
- Redevelopment threatens the affordable housing stock. Based on the Town-

*Those who remain
have watched the
neighborhood empty
and come down
around them.*

ship's estimates, when this project is over, more than 300 homes that were affordable to low- and moderate-income households will have been demolished, and fifty-six such units will be built. The result will be a loss of more than 200 affordable housing units.

To address these concerns, the Department makes the following recommendations:

- The law must demand that displaced homeowners receive "replacement value," that is, compensation adequate to allow them to relocate to comparable replacement homes in their own communities.
- When tenants are displaced for redevelopment, the law should entitle them to the full difference between their old rent and their new rent in a decent, safe, sanitary, and comparable replacement dwelling for at least seven years – with no time limits for senior citizens or people with disabilities living on fixed incomes.
- The law should require municipalities to notify residents at least six months

before demolitions begin. Once residents receive that notice, they must be allowed to demand fair compensation and to qualify for relocation assistance whenever they are ready to go.

- When redevelopment results in the demolition of affordable housing, municipalities must be required to replace as much of this housing as possible so as to avoid aggravating an already dire shortage of affordable housing in the State.

The Department is working with state legislators to amend the State's redevelopment laws to better protect vulnerable low-income citizens subject to displacement as a result of municipal redevelopment programs. Whatever their original intent may have been, the current compensation and relocation assistance laws allow a redevelopment to proceed, triggering the displacement of large numbers of residents, without ensuring that every resident is protected against the immediate and foreseeable adverse consequences of the redevelopment.

Pressing for Legislative Reform

Throughout 2008, the Public Advocate continued to press for legislative reform of New Jersey's redevelopment laws to better protect the rights of tenants and property owners. We worked closely with Senator Ronald Rice to advance his comprehensive reform bill, S559/757, which was voted out of the Senate Community and Urban Affairs Committee on June 19, but did not reach the Senate floor. We also met with representatives of the Department of Transportation, New Jersey Transit, the Department of Environmental Protection, and the City of Newark to learn about and respond to whatever concerns they might have about the reform proposals. We reflected these concerns in an annotated bill and memorandum we shared with the sponsors of both the Senate and Assembly bills (A1492, sponsored by Assemblyman John Burzichelli).



The Gardens during its "Golden Years."



The Gardens now.

With efforts to pass comprehensive reform legislation moving slowly, we are now pressing for a bill that would focus reforms on the laws governing compensation and relocation assistance. We hope that our partners in the Legislature will see the need to ensure that those involuntarily displaced by redevelopment receive enough money to allow them to buy or rent decent, comparable replacement homes.

4

Assisting Our Most Vulnerable Citizens

For many people with mental illness and developmental disabilities, children with learning disabilities and people who are elderly, obtaining the services they need to ensure a good quality of life and to be productive members of society can be a challenge. Despite the best efforts of government agencies and the non-profit provider community, there are vulnerable people who fall between the cracks.

The Public Advocate has made protecting and advocating for these most vulnerable citizens a top priority.



Defending the Rights of People with Developmental Disabilities

The Department advocates for policies and practices that ensure that people with developmental disabilities have safe, comprehensive and effective supports and services and the same opportunities as other citizens to participate fully in all aspects of their communities. The Department's focus in 2008

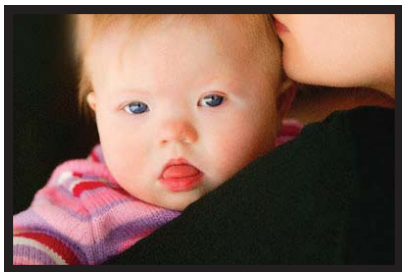
was to:

- Field complaints and concerns from constituents concerned about quality of services;
- Provide individual advocacy for people living in developmental centers, as needed;
- Ensure that eligible individuals with developmental disabilities receive the services and rights to which they are entitled;
- Advocate for people living in developmental centers to be able to move into community residential programs;
- Monitor conditions in state institutions for individuals with developmental disabilities to ensure that residents receive appropriate care; and
- Safeguard the right of people with disabilities to exercise their right to vote.

Community Outreach

The Public Advocate also received and responded to many individual constituent calls in 2008. These inquiries often were resolved through information and referral, while some required Department staff to

become actively involved in problem solving and attend meetings with service providers, treatment teams, consumers and families. For people in need of legal representation or extended advocacy, the Public Advocate works with these individuals and families to ensure effective referrals to legal services providers, like Disability Rights New Jersey.



Including People with Developmental Disabilities in our Communities

In 1999, the U.S. Supreme Court decided that states should not place or keep individuals in institutions when their treating professionals believe that they are capable of living in the community and the individuals themselves do not oppose living in the community. The Court acknowledged that fiscal restraints may prevent states from moving all eligible individuals into the community at once. Nevertheless, every state must demonstrate that it has "a comprehensive working plan for placing qualified persons with

We are working on developing a comprehensive, consumer-friendly catalog of community services including an explanation of how to access these services.

[] disabilities in less restrictive settings, and a waiting list that move[s] at a reasonable pace." In 2006, the New Jersey Legislature required the Division of Developmental Disabilities (DDD) within the Department of Human Services (DHS) to develop a plan consistent with the 1999 ruling. DDD released its plan – Path to Progress -- in 2007.

The Department met with DDD on numerous occasions in 2008 regarding implementation of the Path to Progress plan and the availability of community services for individuals who want to move into the community. To that end, we are working

on an assessment of existing services and an explanation of how to access these services. The Department is also monitoring emergency admissions to state institutions to ensure that while DDD transitions individuals into the community consistent with the Path to Progress, it doesn't also move individuals back into these facilities, except on an emergency, short-term basis.

Finally, the Department continues to review the issue of individuals who want to move into the community, but who may be prevented by parents or guardians who oppose placement. We have been working with DDD to obtain information regarding these individuals, as well as individuals whose guardianships were done by administrative fiat, prior to a change in the law in 1985, rather than through a judicial process.

In 2008, the Department began to examine the need to reduce and end admissions to state institutions for people with developmental disabilities, while providing enough procedural protections for people who need to be admitted on an emergency basis.

At the very end of 2008, the Department began its review of new legislation introduced that would close five of New Jersey's developmental centers within five years. The Department is meeting with stakeholders and provider groups to do an in-depth analysis of this bill, and is also reviewing the successes and failures in other states where institutions are closed or are in the process of being closed.

Restraints and Aversive Interventions

Long a subject of controversy and debate in the community and in the Legislature, the Public Advocate is deeply concerned about the use of restrictive and aversive interventions in the care of children and adults with developmental disabilities.

The Public Advocate is engaged in an ongoing study of this issue and is pursuing public input from self-advocates, fami-



lies, professionals and providers. It is anticipated that in the coming year, our office will significantly contribute to the public dialogue on this issue, especially with regard to questions surrounding the training, staffing, policies and practices necessary to ensure that all children and adults with developmental disabilities receive services in a safe, respectful and effective manner.

Monitoring State Institutions To Ensure Appropriate Care

Safeguarding the civil rights of people residing in state institutions is a high priority for the Department of the Public Advocate. Public Advocate staff work closely with families and consumers on specific areas of concern in the institutional system. As part of this process, the Public Advocate undertook a study of procedures for responding to allegations of abuse and neglect in state programs for individuals with disabilities.

In addition, Public Advocate staff work closely with consumers at New Lisbon Developmental Center to resolve problems that have been identified there including ineffective treatment and behavior supports and improper criminalization of behavior related to disability. Specifically, the Public Advocate has been investigating allegations that staff at New Lisbon were bringing criminal charges against residents when they exhibited behaviors that resulted in harm to others or to property. During the past year, we monitored criminal complaints filed in the local municipal court by New Lisbon staff and residents against other residents of New Lisbon. We communicated with the local prosecutor regarding this problem. We are currently working with Senator Joseph Vitale's office to develop a long-term solution.

In addition, the Public Advocate continues to investigate the use of psychotropic drugs as a way to control behavior of individuals with disabilities who live in state institutions. A large number of individuals in state institutions are medicated with psychotropic drugs. We want to ensure that individuals are medicated only when they have a psychiatric diagnosis and not to ad-

dress unrelated behavior problems. We are currently examining records regarding the use of these drugs in state institutions.

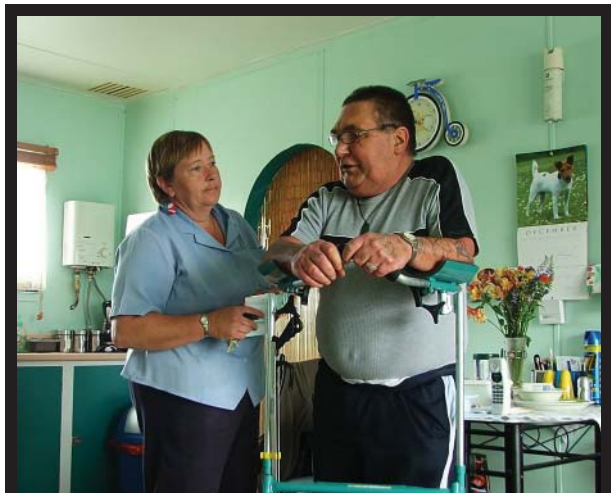
Advancing Community-based Services: The Waiting List Problem

The waiting list of individuals who live in the community and are seeking residential and other community services climbed to more than 8,000 in 2008.

In 2008, the Department undertook an in-depth evaluation of community services, and in particular, of DDD's application to the federal government to expand services covered under the Medicaid Community Care Waiver. The state received approval for its expansion of the waiver effective October 1, 2008. Prior to that, the waiting list was for residential placement and could include additional services. With the renewal of the CCW, the Department will review whether waiting list protocols are consistent with NJ law. In addition, we are reviewing strategies to improve waiting list response times, including filing a Rule Making Petition.

Self-Advocacy Project

The Division of Developmental Disability Advocacy (DDA) had the opportunity to visit the self-advocacy meetings of each of



The waiting list of individuals who live in the community and are seeking residential and other community services climbed to more than 8,000 in 2008.

the State's seven developmental centers. Effective self-advocacy groups can help residents develop critical life skills and facilitate independent living.

Self-advocacy groups bring out qualities of leadership from individuals with developmental disabilities that may never have been seen before. Membership is not contingent upon any skills but simply on the desire and willingness of individuals to speak out for themselves and others. Even group members who do not communicate verbally can and do participate in the group and learn ways of advocating for themselves and others. These skills are helpful for people seeking to enhance their socialization skills, independent living skills, job skills and capacity for more independent, self-directed living.

We observed that each developmental center has a different approach to how their self-advocacy meetings are run. Some have a formal agenda whereas others "go with the flow" and discuss any topic. There is no right or wrong way to start the process as long as the individuals are actively engaged in the meeting.

Based on our belief in the importance of effective self-advocacy groups, we strongly support the continuation and expansion of self-advocacy groups in each of the Division's developmental centers. It is our expectation that self-advocacy groups at each developmental center will be a key resource for skill development and enrichment.

The Voices Project

In 2008, the Department undertook the Voices Project. Growing out of our work with self-advocacy groups and the waiting list[s] project, the Department is videotaping individuals living in both the community and state institutions who are waiting for services in the community, including residential placement.

The Voices Project will allow people with disabilities to exercise their constitutional right to speak their minds. By giving them the chance to speak for themselves, the Voices Project will help educate the public; provide information about the challenges faced by the developmentally disabled

community; and help our state's residents, elected officials and decision makers understand what's at stake and who will be affected by policies being considered.

In vignettes that will be posted on our Public Advocate website, people will talk about how they live now, and how they hope to live in the near future, with the necessary freedom and level of care they need to experience life to its fullest.

Defending the Rights of People with Mental Illness

New Jersey is justly proud of constitutionally prohibiting (New Jersey 1947 Constitution Article I para.5) all forms of discrimination and segregation in services based on religious beliefs, race, color, ancestry, and national origin. Nevertheless vestiges of discrimination based on antiquated beliefs about individuals with major mental illness diagnoses persist in our practices and our laws. The Public Advocate is making a concerted effort to change state policies, practices, and procedures that unnecessarily treat this group of New Jersey citizens with prejudice and also to ensure that they receive their fair share of state benefits and services provided in a humane, integrated environment by qualified service providers.

The Public Advocate recognizes that people with mental illnesses must be offered appropriate care in the least restrictive setting, so that they have the tools they need to manage their illness. For this to occur, psychiatric hospitals must not be overcrowded and there must be adequate housing and support services available in the community.

The Public Advocate, through our Division of Mental Health & Guardianship Advocacy, represents individuals in state, county, and community hospitals to ensure that their rights are protected and they are not required to remain hospitalized for a longer period of time than is clinically indicated. Attorneys and investigators represent cli-

The Public Advocate recognizes that people with mental illnesses must be offered appropriate care in the least restrictive setting, so that they have the tools they need to manage their illness.

ents in civil commitment hearings, to make certain that their rights are upheld. The Division of Mental Health Advocacy examines and researches policy issues that affect consumers in the hospital and in the community.

Residential Health Care Facilities

In March 2008, our report, *Heading Toward Homelessness: Issues in Residential Health Care Facilities*, was released. Our report found that mental health consumers and the elderly, who are the two groups most represented in Residential Health Care Facilities (RHCs), tended to be satisfied with their living conditions, if they lived in places that were well-maintained and well-managed. We then created a list of those RHCs which we found to be good places, based on inspections from the Department of Community Affairs and our own inspections and interviews, and shared this list with the Division of Mental Health Services, directors of state, county, and local hospitals, and other community providers.

We further recommended that a “modest increase in the state funding for these homes combined with expanded support and ‘wrap-around’ services for residents and technical assistance to providers, would dramatically increase the quality of these care homes and provide a viable transition out of public hospitals for many people.” Due to budget constraints, no increased funding was made available to residential health care facilities. This and other market forces, resulted in the closure of some facilities in the last year. We are currently following up with RHC providers to find out how these closures have impacted housing choice for mental health

consumers and older residents.

Staffing at State Psychiatric Hospitals

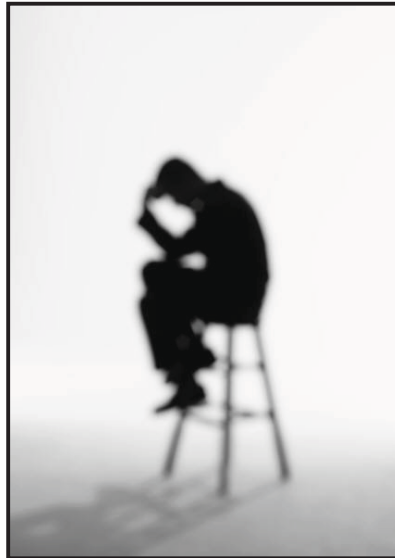
In 2008, the Public Advocate also completed a study on the qualifications of direct care staff at state hospitals. This study, and the recommendations that were made based on our findings, has been shared with the Division of Mental Health Services, which is making recommendations to increase the training that is offered to staff. Since the release of the Public Advocate report, DMHS has received the necessary approvals to hire direct care staff on a full-time basis, rather than requiring staff to begin

part-time and eventually become full-time. The Public Advocate and DMHS believe that this will increase the pool of people who wish to work in state hospitals but who are interested only in full-time employment, such as recent college graduates, who may have gone to community agencies instead of state hospitals.

Undocumented Immigrants in State Psychiatric Hospitals

Often, the policy issues that we focus on come about as a direct result of the clients that

we represent or from consumers or family members who seek our involvement on specific issues. In meeting and representing consumers at state hospitals, the Public Advocate found some consumers who were not clinically in need of hospitalization, and instead were on a status known as “CEPP”, for “conditional extension pending placement.” By exploring the reasons that these consumers remained hospitalized, we found that about 55 of CEPP clients statewide were actually undocumented immigrants. We are currently working with the Division of Mental Health Services to make sure that there are policies in place which will, when possible, assist these consumers in working with Immigration & Customs Enforcement, being sponsored by a rela-



tive who is a citizen, or being repatriated to their country of origin if that is their wish and it is appropriate. In 2009, DMHS has indicated a decline in the number of individuals in this status. DPA continues to monitor this issue.

Appellate Work

The Division of Mental Health & Guardianship Advocacy remains active with regard to Appellate work. Pursuant to an Appellate Court decision, the Division continues to provide appellate representation to all indigent Sexual Violent Predators who wish to appeal their commitment. By using pool attorneys and trial attorneys to write briefs and/or make oral arguments, we have managed to process most of these appeals in a timely manner. Additionally, test case appellate briefs and arguments by mental health commitment attorneys have been used to request Appellate Court direction for the trial courts in areas where the procedural or substantive rights of our clients have not been clearly established. In this area, we were generally successful in establishing rights for the mental health clients.

While several appeals await resolution and others were unpublished, attorney Lorraine Gormley succeeded in having a trial court commitment reversed, and an instructive appellate decision published. In *re T.J.*, instructs the trial court on the importance of liberty for individuals who are not committable under the New Jersey Statute and have a place to go. A patient's criminal his-

tory or a hospital's policies and procedures cannot affect discharge of a person who does not meet commitment standard and who can live with his family.

Individual Representation and Assistance

The Public Advocate represents clients in civil commitment hearings in Atlantic, Bergen (children only), Camden, Cape May, Cumberland, Essex, Gloucester, Hudson, Hunterdon, Monmouth, Mercer, Ocean, Salem Counties. The following table illustrates the number of cases that the Public Advocate was involved with in 2008.

The Alternative Commitment Unit now has 402 clients. This unit represents at trial and on appeal most of the people committed as Sexually Violent Predators in New Jersey.

The Public Advocate also works on guardianship cases, primarily for developmentally disabled adults who the applicants maintain are unable to manage their own affairs. The Public Advocate represents the individual, to ensure that his or her rights are respected and that guardianship is given only when necessary. During 2008, the Division of Mental Health & Guardianship Advocacy opened 381 cases, of which 243 were closed.

Another area in which the Public Advocate is involved is in responding to complaints regarding hospitals and community agencies. While the Public Advocate usually cannot offer individual representation in this area, we have been successful in resolv-

Cases Represented by the Division of Mental Health Advocacy and Guardianship

	NEWARK Office	TRENTON Office	GIBBSBORO Office	TOTAL
Openings	5249	7060	6044	18,343
Closings	4979	6637	4527	16,143
Wins	3441	4334	2943	10,718
Losses	804	668	593	2,065
PERCENTAGE	81%	87%	83%	84%

ing complaints against hospitals and community agencies. Additionally, in 2008, we received more than 900 calls from individuals seeking referrals or information about mental health services.

Safeguarding the Elderly

In 2008, the Department's Division of Elder Advocacy engaged in direct advocacy on behalf of senior citizens and also developed a wide range of recommendations for reforms to the systems that serve the state's elderly population.

Investigating Discharges from Assisted Living Facilities

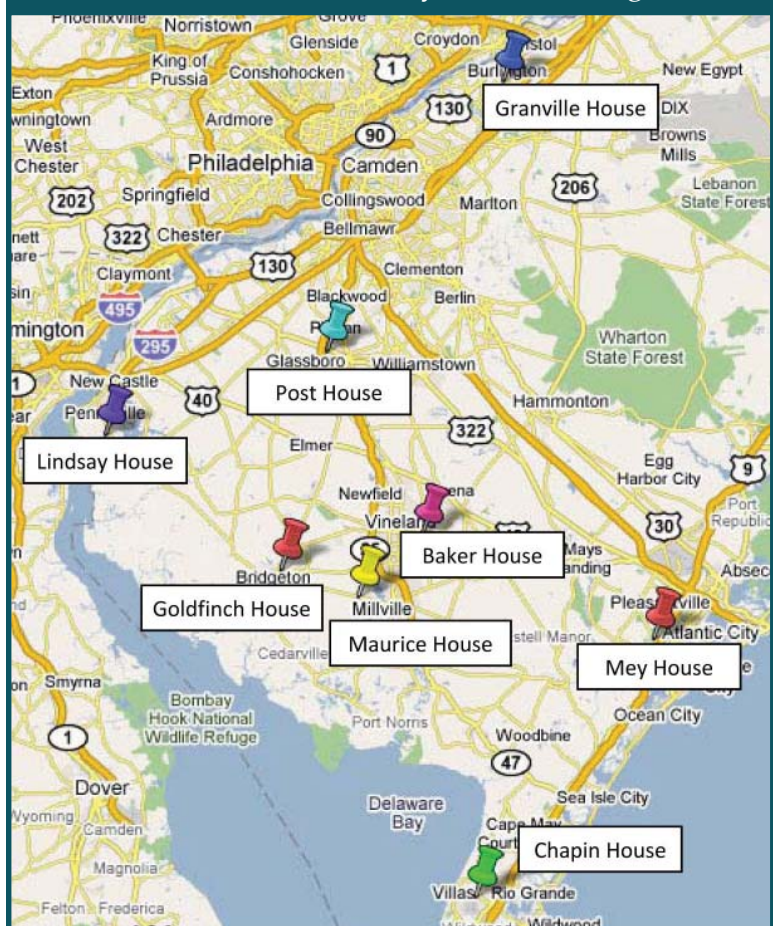
Throughout 2008, the Department investigated Assisted Living Concepts, Inc., which began discharging Medicaid-eligible residents in 2007 contrary to the promises made to its clients. This agreement not to discharge Medicaid-eligible residents once they had spent down their private savings had also been included by the company in its original certificate of need application to the state, which had been approved as a prerequisite to licensure. From this investigation, we found not only that the company had breached its promise to residents, but that the statutory and regulatory scheme protecting residents of New Jersey's assisted living facilities needed to be strengthened to prevent similar wrong-doing by bad actors in the future.

Our investigation began in late 2007, when the Office of the Ombudsman for the Institutionalized Elderly informed us that certain residents of assisted living facilities were being involuntarily discharged after they had spent all of their savings and needed to enroll in the Medicaid program.

The Department found that this publicly traded company had instituted a new national policy in late 2006 to significantly limit its participation in the Medicaid program. We also found that, in New Jersey, this policy was implemented by refusing to accept the Medicaid reimbursement for residents who had spent down their life savings and had become Medicaid eligible. We found that prior to our involvement, the company had forced these residents to move out. Once we began the investigation, the Department worked closely with the NJ Department of Health and Senior Services (DHSS) to protect the safety of individual residents still living in the facilities as they became Medicaid-eligible.

As part of the investigation, the Department interviewed more than 110 residents, former residents and family members. In addition to on-going advocacy, we made recommendations to DHSS, issued a public report, and are participating as an amicus

Locations of ALC's New Jersey assisted living facilities



curiae in an appeal filed by Assisted Living Concepts, Inc.

Assisted Living: Legislative and Regulatory Reforms

The Department is also working toward legislative and regulatory reforms that will better protect residents of assisted living facilities. In the Department's report on Assisted Living Concepts, Inc., we made recommendations regarding policy changes in several areas governing the assisted living industry.

First, we supported legislation introduced by Senator Jeffrey Van Drew that would mandate that all New Jersey assisted living facilities provide 10% of their licensed beds to residents who are Medicaid-eligible. Under current law, only facilities licensed after September 1, 2001 must provide beds to Medicaid-eligible residents. This legislation would also mandate that residents who spend-down and are Medicaid-eligible cannot be discharged solely because of their Medicaid status.

Our report also recommends the adoption of DHSS regulations mandating a uniform assisted living disclosure form. In 2008, the Department continued to move forward with the creation of uniform consumer disclosure requirements for assisted living facilities, allowing individuals to more easily compare facilities to determine which best meets their needs. Working collaboratively, the Department and DHSS developed a proposed disclosure form. If an implementing regulation is adopted, assisted living facilities would be required to give prospective residents the form, which would give consumers details about services, staffing, rates, discharge policies, Medicaid eligibility policies, and other conditions in the facility. The Department will continue to work with DHSS to complete the form.

In the course of our investigation of Assisted Living Concepts, Inc. the Department determined that the current regulatory scheme for protecting assisted living residents from involuntary discharge in non-medical situations is inadequate. We recommend that a working group be convened to look at this issue, and consider the

implementation of meaningful procedural protections for residents facing discharge for reasons like non-payment.

Finally, the Department found that assisted living providers, including Assisted Living Concepts, Inc. are frequently requiring adult children to sign guarantor agreements on behalf of their parents. These agreements are prohibited in the nursing home context to the extent that signature is a condition of admission and they become void when a resident becomes Medicaid eligible. We recommend that policy makers create similar restrictions, or outlaw them altogether, in the assisted living context.

Medically Needy Waivers

The Department continued to research the potential for New Jersey to get Medicaid support for community services for those individuals



who do not quite qualify for Medicaid but who would qualify if their significant medical expenses were excluded from their income. Currently, these individuals can only qualify for Medicaid if they agree to enter a nursing home. The Department's study examined ways to ensure these individuals could receive supportive services in their own home or assisted living facilities so they do not need to enter a nursing home. The Department spoke with policy makers in states where this had been implemented, including Washington State, as well as DHSS. In 2008, the federal government decided to re-examine the issue of making it easier for higher income seniors to access home and community based long-term care services upon spend-down. We are monitoring the federal efforts.

Protecting the Elderly in Institutional Settings

The Public Advocate oversees the Office of the Ombudsman for Institutionalized Elderly (OOIE), which investigates abuse, neglect and financial exploitation of New Jersey residents who are 60 and older and who live in the 1,155 assisted living facilities, nursing homes, medical adult day care, residential health care facilities, boarding homes, psychiatric hospitals and developmental centers located in New Jersey.

By law, all staff working within a long-term care facility must report any suspicion of abuse, neglect and exploitation to the Elder Ombudsman's office.

By law, all staff working within a long-term care facility must report any suspicion of abuse, neglect and exploitation to the Elder Ombudsman's office. The office then investigates all allegations of such claims. Sixty-five percent of the complaints received

by OOIE were because of this mandatory reporting act. In addition, the Office works closely with social services, regulatory, advocacy, policy-making, law enforcement, and other organizations – all with the goal of improving the lives of New Jersey residents needing long-term care.

During the summer of 2008, the Ombudsman took a leadership role in educating seniors and nursing facility operators about the availability of federal stimulus payments for senior citizens. Elder Ombudsman Debra Branch and Public Advocate Ronald K. Chen engaged in a public education effort to notify citizens who are elderly and/or disabled and who normally do not file a tax return that they might qualify for a stimulus as high as \$300 per individual or \$600 for a couple. Thousands of letters were sent to nursing facilities notifying them of filing deadlines, and the issue received a significant amount of coverage in the media. As a result of these efforts, the Department fielded hundreds of calls from seniors interested in applying for the stimulus funds.

In addition, OOIE successfully advocated with the state Department of Transportation (DOT) to enhance the safety of pedestrian crossings for Dover Woods Residential

Healthcare Center residents. To prevent further traffic deaths, DOT installed a new Do Not Cross Here sign, a new Use Cross Walk sign and a Handicap Push button to delay the traffic signal.

In 2008, the Elder Ombudsman responded to about 7,378 complaints or incidents involving people over 60 living in nursing homes or other long-term care facilities -- an increase of more than 600 cases compared to the previous year. The Ombudsman both responds to complaints and reviews "incident reports" that facilities must produce for injuries or other incidents that raise concerns. Sometimes complaints can be resolved to the benefit of the resident "at the bedside" with the full cooperation of the facility operators. In other cases, like cases of serious or system abuse and neglect, referrals will be made to appropriate enforcement agencies.

In one case, reports of abuse and missing medication ultimately led to the arrest of a licensed practical nurse (LPN) with 40 separate allegations of elder abuse, theft



of narcotics, and assault. After being employed by a Southern New Jersey nursing home for only three months, several patients had specifically requested not to be placed under the nurse's care. "In fact, when a resident had asked for medication and did not receive it, he said he was pinched. There was also another incident where a family member observed the nurse pushing a resident into the closet," an OOIE investigator recalled.

After careful scrutiny, the investigator was able to link the nurse to similar incidents at

several facilities in two different counties, where she worked under a different alias. Examination of the complaints revealed a pattern of abuse consistent with the nurse's working hours. OOIE's two-month investigation eventually laid the groundwork for the Salem County Prosecutor's Office and led to the LPN's arrest in June 2008.

Protecting Older Adults From Exploitation

Financial exploitation of elderly people is a growing segment of the concerns investi-

gated by the Ombudsman. In 2007, OOIE investigated and referred more than 50 cases of financial exploitation to the Department of the Attorney General's Medicaid Fraud Unit for further investigation and prosecution.

While the appointment of power of attorney authorizes the appointed person to manage the person's financial affairs, including signing checks and making deposits, paying bills, obtaining medical services and selling property, these decisions must be made in the best interest of the person. The Ombudsman responded to a growing number of cases in which the individual had executed a power of attorney, but it was improperly utilized by either a family member or the nursing facility.

In early spring 2008, an investigation by the Ombudsman's Office led to the arrest and indictment of a man charged with stealing more than \$100,000 from his mother. The investigation indicated that the son, as his mother's power of attorney, allegedly wrote himself checks and made several withdrawals from her bank account. At one point, he allegedly attempted to switch his mother's account to his name.

The Ombudsman's Office first learned about the matter through Adult Protective Services under the NJ Department of Health and Senior Services in late 2007. Once the mother moved into a long-term care facility, the investigation went under the jurisdiction of the Ombudsman's office. OOIE's thorough examination of the financial records helped the Ocean County Prosecutor's Office pursue this investigation further and ultimately led to the arrest of the Toms River resident.

In response to a growing number of cases like this, the Department successfully developed and delivered Durable Power of Attorney training to almost a dozen facilities, community organizations and attorney bar associations, educating individuals about appropriate usage of a power of attorney, and how individuals can ensure that they maintain decision-making authority over their own lives.

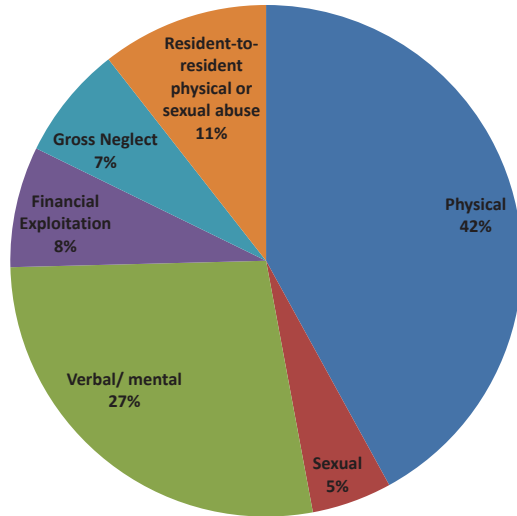
The Department also provided consumer education materials about the use of a power of attorney on its web site.

The Residents' Bill of Rights

The Nursing Home Reform Act established the following rights for nursing home residents:

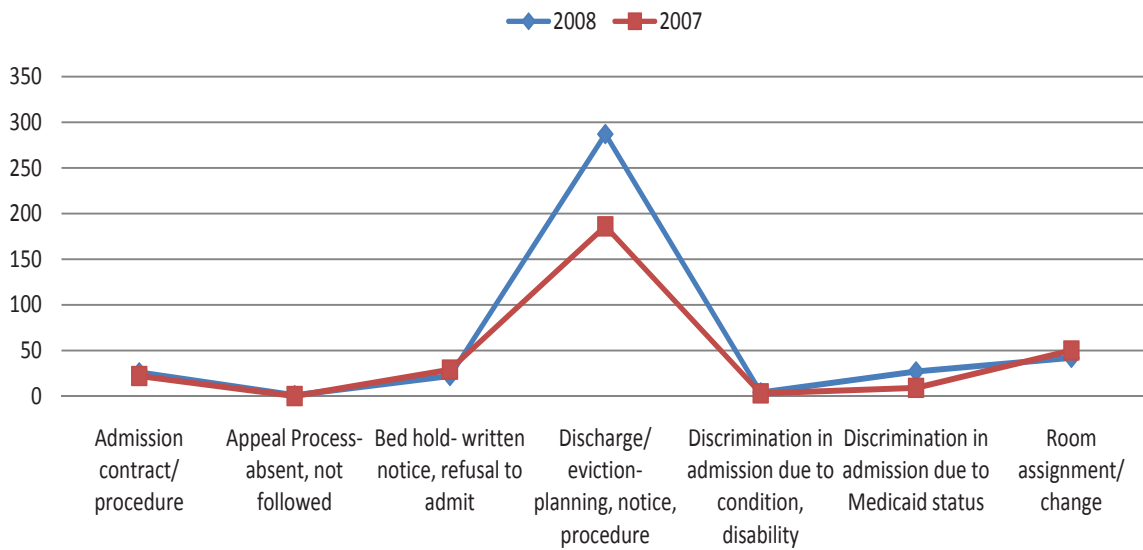
- The right to freedom from abuse, mistreatment, and neglect;
- The right to freedom from physical restraints;
- The right to privacy;
- The right to accommodation of medical, physical, psychological, and social needs;
- The right to participate in resident and family groups;
- The right to be treated with dignity;
- The right to exercise self-determination;
- The right to communicate freely;
- The right to participate in the review of one's care plan, and to be fully informed in advance about any changes in care, treatment, or change of status in the facility; and
- The right to voice grievances without discrimination or reprisal.

Breakdown of abuse, gross neglect, and exploitation complaints



Abuse, Gross Neglect, Exploitation	Total
Physical	473
Sexual	57
Verbal/ mental	310
Financial Exploitation	86
Gross Neglect	81
Resident-to-resident physical or sexual abuse	119

Complaints Regarding Admission, Transfer, Discharge, Eviction 2007-2008



As a result of the Department's investigation into Assisted Living Concepts, Inc., a national assisted living facility corporation, discharge and/or eviction complaints significantly increased from 186 in 2007 to 287 in 2008.

Biomedical Ethics

Families can face difficult decisions when their loved ones grow older and experience failing health. Sometimes, they may have to decide whether to provide life support, such as a ventilator or feeding tube, to keep a loved one alive. Or, they may have to decide whether to remove life support, if it becomes apparent that the likelihood for recovery is slim. Family members may even disagree over the best course of action.

As the overseer of end-of-life decision making in long-term care facilities, the Office



of the Ombudsman for the Institutionalized Elderly helps inform people who are making these difficult decisions. Fourteen statewide regional long-term care ethics committees are now operating throughout the state. These committees serve as the only statewide network of regional long-term care ethics committees anywhere in the country. The Ombudsman's role is to be a source of impartial information and to make recommendations on a particular course of action.

The Ombudsman also encourages long-term care facilities to call upon the expertise of Regional Ethics Committees. Nursing homes and other providers of long-term care can tap this resource when confronted with issues of biomedical ethics, or merely the day-to-day ethical issues that arise everywhere.

The Ombudsman worked to develop these

committees, with financial and technical help from the Robert Wood Johnson Foundation and Cooper Hospital University Medical Center. These committees can conduct a more thorough investigation of a particular situation, as well as offer recommendations to the decision-maker. Facilities are encouraged to tap this resource when confronted with end-of-life issues or even day-to-day ethical issues that often arise.

With the assistance of a grant from the Healthcare Foundation of New Jersey, and also in cooperation with a nationally-recognized palliative care team from Cooper Hospital University Medical Center, the Ombudsman has also coordinated training for facility staff in the provision of palliative care to assist those at the end of their lives to spend their final days in dignity and comfort.

Volunteer Advocacy Program

The Office's Volunteer Advocacy Program, first piloted in 1993, continues to thrive. The important work of the Elder Ombudsman is greatly augmented by teams of highly motivated and devoted volunteers throughout the state who visit nursing facilities near their homes a minimum of four hours each week. These dedicated volunteers visit their facilities during different shifts and also make unannounced visits. They speak to the staff and observe how residents are treated. They observe the quality of services provided by the nursing home staff, such as how well residents are groomed and if their personal needs are being met. They address such issues as living conditions, daily activities, and quality of care.

The Office has trained more than 905 volunteers, of whom 166 are currently active, and placed in 159 facilities throughout the State. New Jersey has a very dedicated and caring corps of volunteers. Far too often, these volunteers are the only visitors a resident may have. Good quality care should not depend upon whether the resident has a family member who advocates effectively on their behalf. Having an advocate to speak for all the residents, regardless of whether their families are nearby or wheth-

er they have any family at all, is the best way to ensure residents receive good care.

Meet Our Elder Volunteer Advocates

The success of the Volunteer Advocate Program is predicated on the dedication and devotion of citizens in New Jersey who willingly give back to their communities, and their ability to effectively resolve issues on behalf of the population we serve. Volunteers must complete a 32 hour training program to become a certified Ombudsman Advocate.

If you are interested in becoming a volunteer advocate, please contact Joann Cancel at 609-943-4022 or via email at joann.cancel@advocate.state.nj.us.

"We have the state behind us"

Ann Herman-Sauer

**Lakewood of Voorhees Nursing Home,
Voorhees, NJ**

After a career of working with children, Haddonfield resident Ann Herman-Sauer has spent her retirement advocating for a much older crowd.

As a Volunteer Advocate for the New Jersey



Ombudsman for the Institutionalized Elderly, she spends several hours a week at the Lakewood of Voorhees Nursing Home in Voorhees, empowering residents and ensuring the best quality care.

As a Volunteer Advocate, Herman-Sauer acts on behalf of the Elder Ombudsman.

Volunteer Advocates visit older residents regularly and keep an eye on quality of care issues, resolve problems and provide com-

panionship for elderly residents.

Herman-Sauer says it is not much different from her past jobs as teacher, counselor, and guidance supervisor for grades K-12. "I always did advocacy work for my students," she said. She says it just comes naturally for her to encourage people.

Ann says the most powerful tool for the Volunteer Advocates is the assurance that "we have the state behind us." Any suspected cases of abuse or neglect are reported directly to the NJ Office of the Ombudsman for the Institutionalized Elderly.

"A billion dollars worth of memories"

John Gonyo

Roosevelt Care Center, Edison, NJ

Fords resident John Gonyo has always enjoyed volunteering. For him, it is a desire from within to help others.

His wife jokingly says "If he added all the



hours of his volunteer work, he would be a millionaire." Gonyo responds, that he "has a billion dollars worth of memories."

It is because of these memories that Gonyo is so dedicated to serving the residents of the Roosevelt Care Center in Edison, NJ.

Volunteer Advocates visit elder residents regularly and keep an eye on quality of care issues, resolve problems and provide companionship for elderly residents.

Gonyo visits the facility several hours a week, responding to the needs of all six floors of residents. He knows almost all of them.

Gonyo first learned about the advocate program through AARP, and decided to get involved; as a senior citizen himself, he wanted to learn and be active in advocating for nursing home residents.

As Gonyo walks through the residence halls, the benefits of his visits are obvious. The staff clearly respects him and works hard to make sure the center is in tip-top shape, which makes Gonyo's job easier, he noted.

As he looks into the bedrooms of the residents checking to see if they are comfortable and happy, their faces light up; he has a joke and a smile for all of them.

Through his jovial approach with the residents, he has been able to gain their trust and feel comfortable, so that airing any complaints and problems won't come with apprehension. The residents know they can rely on him to quickly address and resolve small issues.

If the residents have no complaints, Gonyo provides them company. Some of them have no visitors, but they all know they have Gonyo to talk to.

For him the satisfaction of volunteering comes from knowing he helped someone in need. Gonyo noted that it is all worthwhile for him if in a day's work he can help just one person, making their life better.

"In the presence of angels"

Bonnie Camp

Lincoln Specialty Care, Vineland, NJ

Being a Volunteer Advocate for the New Jersey Ombudsman for the Institutionalized Elderly started out as a part of her social policy class at Richard Stockton College, but it turned out to be a much more meaningful experience for Vineland resident Bonnie Camp.

"[The residents] have no idea what they do for me," she said. "They really touch my life; I feel like I am in the presence of angels being here."

She starts her time by walking around and seeing as many people as she can, addressing immediate needs, such as a resident wanting a glass of water or a bed-bound resident who just needs to be turned over. One woman ran out of soap and didn't have any towels or powder, so Camp went and got them for her.



"She was so grateful," she said. "I tell them we're a team. You have to tell me what you need and I help find it for you."

Another woman wanted a garden like the one she used to have at home, so Camp bought plants: rhododendrons, pansies, all sorts of colorful flowers to plant in the area outside. She even got a group of silk flowers to hang off the gazebo in the center so the residents would always have flowers.

She says the garden "brightens up their faces," and people have even added to the garden, bringing pots of tomatoes outside. She helps with the upkeep too, taking plants home to water if they look in bad shape -- all this to keep the residents smiling.

For Camp, it's the little things that make a difference: giving a pat on the shoulder to a resident as she walks by, getting on eye level with a resident to talk, and holding a resident's hand as the person recalls a traumatic incident. Despite her full-time job and full-time school schedule, she finds time to be there for the residents. She says it is worth it because of what the residents give to her.

"They make me feel like a million bucks."

5

Advancing Good Public Policy

Safeguarding Voting Rights

The Public Advocate's Voting Rights Project seeks to protect the fundamental right to vote belonging to every U.S. citizen. Our project has three overarching goals. We aim to ensure: first, that every eligible person is registered to vote; second, that every registered voter can cast a ballot; and third, that all ballots cast are accurately and fairly counted.

In the historic 2008 presidential election, approximately sixty-six percent of New Jersey's eligible voters cast a ballot. While this is slightly above the national average, much work remains to be done to improve the voter participation rate.

In addition, as we demonstrated in an October 2008 report, *Close Elections in New Jersey*, local and county elections that are decided by a less than one percent margin are relatively common in the Garden State and underscore the need for all eligible citizens to cast their votes at every election. The frequency of close elections also reinforces the need for election officials to intensify their

efforts to register voters, to remove impediments to participation at the polls, and to count ballots as accurately and completely as possible.

Ensuring full registration of eligible voters



The National Voter Registration Act (NVRA) is a 1995 federal law that requires motor vehicle agencies to offer customers a meaningful opportunity to register to vote when they come to a motor vehicle agency to obtain or renew a driver's license or nondriver ID card. The NVRA also requires that all address changes submitted to and

accepted by the Motor Vehicle Commission (MVC) for driving purposes be forwarded to election officials for a change of address in the statewide voter registration system.

In March 2008, the Public Advocate, the MVC, and the Attorney General signed a memorandum of understanding (MOU) to bring the State into compliance with the NVRA. The initial reports from MVC are favorable, showing that between March 2008 and March 2009, MVC registered 119,866 voters, more than doubling the pace of reg-

istrations from the 2004-06 reporting cycle. In addition, MVC also transmitted 142,983 address changes to election officials in that same time period, giving these licensees the benefit of updating both their driver's license and voting addresses in a single transaction. We expect the pace of registrations and address changes to pick up as the training and monitoring protocols also negotiated in the MOU continue to come into effect.

As a further result of the MOU, the Division of Elections completed a mailing in September 2008 to approximately 821,000 of the approximately 2.1 million MVC customers who could not be identified on the voter registration rolls, resulting in abundant new registrations in the November 2008 election. In addition, MVC has updated its systems to comply with the NVRA by offering voters the choice to update their voting address of record simultaneously with an update of MVC's records. We continue to monitor compliance with the NVRA's requirements that (1) address changes processed by MVC result in an automatic update of voter registration records; (2) voters are not arbitrarily purged from the voting rolls; and (3) government offices that provide social services or assistance to people with disabilities offer a simultaneous voter registration opportunity.

We have also encouraged compliance with our State's 1985 law mandating the distribution of voter registration materials to public and private high school students who are eligible to vote, along with instructional material about citizenship and the importance of voting. Working with the Department of Education, educators, and advocacy groups, we researched, prepared and disseminated to public school superintendents and other interested groups a fact sheet about the law and our recommendations for its implementation. We also participated in promoting legislation (A2752/S2541) that fine-tunes this requirement. The primary sponsors of the legislation are Senators Ronald Rice and Dana Redd in the Senate, and Assemblymembers Ralph Caputo, Valerie Vainieri Huttie and Douglas Fisher in the Assembly.

In addition, we have partnered with other agencies to help ex-offenders who have completed a sentence restore their right to vote. According to state law, an individual may not vote in New Jersey while serving a sentence (jail, prison, probation, and parole) as a result of a conviction for an indictable offense. However, when a person completes a criminal sentence and is otherwise qualified to vote, he or she regains the right to register and vote. With the assistance of the Administrative Office of the Courts, we developed and circulated informational material about how such individuals can restore their right to vote.

Thousands of people re-entering society as they complete their sentences have received these flyers, and they were also made available at recent public hearings on reentry issues conducted by Assembly Majority Leader Bonnie Watson Coleman.



Ensuring all eligible voters can cast ballots

Continuing our Election Day voter assistance project that we began in November 2006, the Department activated all available attorneys for Election Day duty during the November 2008 general election. We sent fifty-five attorneys and other staff to thirteen county courthouses to represent voters there, and twelve attorneys and staff were on hand at DPA headquarters.

During Election Day, our attorneys appeared in approximately 508 cases, either directly on behalf of a prospective voter or as an amicus curiae (friend of the court) supporting the right to vote. Prospective voters prevailed in approximately 439 of those cases (an eighty-six percent success rate).

The Department continues to study and monitor ways in which government officials distribute accurate and timely voter educa-

tion materials. State law requires a variety of methods for conveying voter information, including accurate and helpful internet sites, informative sample ballots, and newspaper advertisements with legally required content about voting procedures. In the weeks and months leading up to the 2008 general election, we offered suggestions to election officials about how to improve their communications with voters, and we will continue to do so.

The Public Advocate is fighting a state policy that restricts civil rights groups who assist voters at the polls on Election Day. A 2007 “directive” by the Attorney General bars nonpartisan civil rights groups from assisting prospective voters within 100 feet of the entrance to the polling place building on Election Day. Groups that wish to engage in “exit-polling” those who have just voted are allowed within the 100-foot



zone, but must register at least two weeks in advance with the appropriate county election board. As a friend of the court, the

Public Advocate argues that the directive is an unconstitutional restriction of free speech. In addition, the Department argues that a “directive” like this one, which affects a broad swath of people in their exercise of a fundamental constitutional right, must be publicized and vetted through the formal rulemaking process. Last August, the Appellate Division of Superior Court upheld the directive, but the New Jersey Supreme Court agreed to hear an appeal. The Department participated in arguments before the Supreme Court in February 2009.

Following up on earlier work in 2007 to promote the voting rights of people with disabilities, the Department presented the Secretary of State in early 2008 with a 13-point plan to improve compliance with federal and state laws requiring that all polling places and voting systems be acces-

sible to voters with disabilities. During the June 2008 election, the Public Advocate and the Secretary of State personally visited five polling places around the State to assess their compliance with the accessibility laws. They noted progress in accessibility compliance at each of the sites, although some needed additional improvements to fully accommodate voters with disabilities. We will continue to collaborate with the Division of Elections to ensure that county elections boards meet their obligations to voters with disabilities.

We also support a variety of legislative reforms including (1) A1930/S2214, sponsored by Assemblymember Gusciora and Senator Turner, which requires educating poll workers about the rights of people with disabilities; (2) proposed legislation to codify the amendment that voters approved in 2007 removing offensive language from the Constitution about voters with disabilities; and (3) a bill containing a variety of amendments to the state election law to improve how citizens with disabilities are treated during the voting process.

In July 2008, Department staff conducted a seminar with the New Jersey Council for Developmental Disabilities’ Partners in Progress program about voting rights. Later that month, the Department’s Division of Public Interest Advocacy and Division of Elder Advocacy cooperated with the U.S. Governmental Accountability Office in its efforts to compile information about voting opportunities for elderly voters and those living in long-term care facilities.

Lastly, the Department continues to ensure that the State’s diverse population is appropriately accommodated in the scheduling of elections; we cooperated with the governor’s office to formulate a responsible solution about how election days are scheduled, so they do not conflict with important religious holidays. Governor Corzine signed the bill (A3186/S2199) on January 12, 2009.

Ensuring all ballots are fully and fairly counted

The Department remains committed to ensuring that whatever technology the state and counties use for elections has been thoroughly tested, in a manner that simulates Election Day conditions, to ensure compliance with State law requiring voting machines to be reliable, accurate, and able to secure voter privacy. This work included extensive testimony before the State's Voting Machine Examination Committee in June 2008.



The Department presented the Secretary of State in early 2008 with a 13-point plan to improve compliance with federal and state laws requiring that all polling places and voting systems be accessible to voters with disabilities.

In addition, we are completing a review of the contracts between the counties and voting machine vendors to ensure that these contracts adequately protect the interests of voters and taxpayers. We are also preparing a model contract for future use that controls costs, enhances counties' warranty rights if machines malfunction, increases transparency, and does a fairer job of outlining the rights and responsibilities of voting system manufacturers and government officials. A memorandum describing the contract review and model contract will be forthcoming.

The Department continues to support the recent law that requires automatic auditing of paper election records. Although this law was signed in January 2008 and applies to all paper ballots, including those cast by

absentee voters, it has yet to be fully implemented. The Department will continue to monitor the situation to ensure this law is promptly applied.

Promoting Affordable Housing

Following its work in 2007 to ensure that the Third Round COAH rules more accurately reflected the need for affordable housing, the Department focused its efforts in 2008 on supporting landmark legislation (A500) sponsored by Assembly Speaker Joseph Roberts and Majority Leader Bonnie Watson Coleman. This legislation amended the Fair Housing Act, among other laws, to eliminate constitutionally suspect mechanisms for creating affordable housing and to devise new and better ones.

The Public Advocate testified in support of the bill and worked with legislative leadership, the Governor's Office, and DCA to ensure vital reforms. In particular, the Department focused on the importance of a set-aside for housing affordable to very low income families, those earning 30% of the median income or less (roughly \$19,000 annually). Our prior study of the issue had shown that, in the absence of a set-aside for the lowest income families, affordable housing tends to cluster around the moderate income range and not to reach those who most need help. As enacted, A500 includes a provision ensuring that thirteen percent of affordable housing will be priced to make it accessible to the neediest families.

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We advocated as well for a provision to require the replacement of affordable housing that would otherwise be lost to redevelopment. For the first time, A500 imposes on municipalities the obligation to incorporate into their redevelopment plans a provision for the one-for-one replacement of housing

that is “subject to affordability controls.”

The Public Advocate also supported the creation of alternative funding mechanisms and the abolition of Regional Contribution Agreements, or RCAs. RCAs allowed towns to avoid meeting up to half of their constitutional affordable housing obligation by paying other towns to create affordable housing. A500 created other sources of funds to assist municipalities that have a disproportionate share of affordable housing, while also enforcing the important principle that a municipality should not be allowed to buy its way out of providing its fair share of housing for low- and moderate-income families.



Having supported A500 and applauded the more robust requirements of the rewritten Third Round COAH Rules, we proceeded to help defend these advances from attack. The Township of Medford filed a complaint before the Council on Local Mandates arguing that the affordable housing guarantees of the new law and rules impermissibly impose unfunded state mandates on the municipalities. The Public Advocate participated in the case as a friend of the tribunal. Our brief filed in February 2009 argued that neither the COAH rules nor A500 imposed a “mandate,” unfunded or otherwise, because participation in the COAH process is voluntary on the part of a municipality. We argued further that the rules and statute at issue were exempt from Council action because they implement provisions of the New Jersey Constitution. On March 18, 2009, the Council expressed its agreement on the latter point, declining

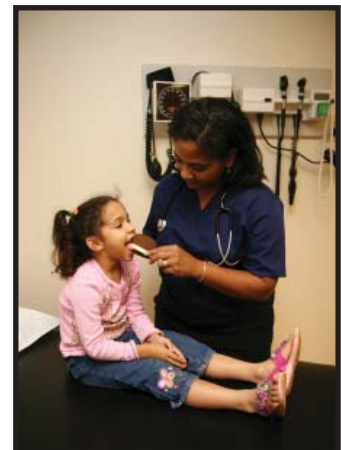
to rule on the petition and deferring to the New Jersey courts’ exclusive jurisdiction to decide constitutional issues.

Helping Communities Protect Their Hospitals

With hospitals facing increasingly uncertain financial times, the Public Advocate has sought to ensure that the communities that depend on those hospitals are meaningfully engaged in the decision about whether or not a hospital closes.

Muhlenberg Regional Medical Center (Muhlenberg Hospital) was a vital part of the Plainfield community. In the months before the hospital closed, the community actively worked to keep it open and approached the Public Advocate for support. Without taking a position on the ultimate questions whether or how the hospital might be saved, the Public Advocate worked to amplify the voice of the community and to ensure that the process permitted its full and meaningful participation.

To achieve this goal, the Public Advocate met with representatives of the community and the Commissioner of the Department of Health and Senior Services (DHSS) and her staff. In addition, we testified before the State Health Planning Board. The DHSS Commissioner was receptive to the concerns we raised and worked to create more meaningful opportunities for community engagement, among other things by providing more time for the community to respond to Muhlenberg Hospital’s request to close. While there is no question that the community lost an important institution when Muhlenberg shut



its doors, the final decision of the DHSS Commissioner included a more detailed analysis of the closure than had been released in the past. Moreover, DHSS insisted that certain vital services, including a satellite emergency department and a dialysis unit, remain in Plainfield. In this economic climate, when the State will have to make difficult decisions, such increased transparency and responsiveness are critical.

Ensuring Public Access to Public Land

To help educate the public about beach access, the Department published its third guide to New Jersey's beaches in the summer of 2008, providing information on public and private beaches and their fees, restrooms, parking, access for persons with disabilities, and more.



6 Fostering More Responsive Government

The Public Advocate's Division of Citizen Relations consists of three distinct offices that each serve the public in a unique way.

1. The Office of Citizen Relations (OCR) serves as the state's ombudsman in resolving problems citizens have when interacting with state government agencies.
2. The Office of Dispute Settlement (ODS) provides a broad range of neutral dispute resolution services to the courts, public and private sectors to minimize and resolve conflict.
3. The Corrections Ombudsman addresses the issues and concerns of the state's inmate population.



ment agency, they have an ally on their side to help them cut through the red tape.

The Office of Citizen Relations assists those who need help solving problems with government agencies, and who are having trouble being heard. Some complaints are best handled by a simple telephone call to the appropriate agency. Other complaints are serious enough to warrant a full investigation. In either case, OCR's Advocate Representatives make sure that when it is appropriate, government renders prompt justice against itself.

In 2008, OCR received a total of 3,124 complaints from the public - a nearly 50 percent increase from the year before (2,048 in 2007).

Each of these offices is dedicated to solving problems and resolving conflict whenever possible.

Helping Citizens Navigate Government Agencies

In New Jersey, when residents bring concerns, questions and complaints to a govern-

The Office also conducted outreach to raise awareness of OCR's role in state government. Staff have personally met with all legislators and/or their staff for the purposes of advising them about how the Office can effectively assist them in helping their constituents. In addition, OCR staff attend various conventions and participate in numerous community initiatives and symposiums in conjunction with local government agencies as well as with legislators. Finally, in order

to facilitate a prompt and efficient response to citizens regarding their complaints/concerns, we have worked to establish a liaison with every state agency.

The Office handles a broad array of requests ranging from helping track down tax rebates to keeping people from being evicted from their homes.

Specifically, the Office of Citizen Relations gives the public a way to:

- Express their dissatisfaction with a decision, action or policy of a government agency;
- Seek information about a government agency and/or program;
- Report bureaucratic delays, inadequate or confusing responses to citizen inquiries; and
- Express concerns about the manner in which an agency addresses a problem or treats a citizen.

In addition, the Office of Citizen Relations can help identify areas in government where improvements are needed. By soliciting citizen complaints directly from the public, the Office of Citizen Relations is able to identify areas in need of systemic reform. If necessary, the Office of Citizen Relations is also empowered to hold public hearings and to refer matters to the Public Advocate for further action.



Case Studies:

The Check is in the Mail...

It was late January of 2008 when J.K. contacted the Office of Citizen Relations, asking for assistance in obtaining her 2006 homeowner rebate check. J.K.'s husband passed away that year and because the rebate was in her late husband's name, she still had not

received the check. Despite contacting the appropriate office and sending all the necessary forms, the Cherry Hill resident had yet to receive a response.

An OCR Advocate Representative investigated the issue by contacting the Division of Taxation and reviewing all relevant documentation. In March 2008, J.K. finally received her check.

The Case of the Lost Tax Payment

In April 2008, J.G. filed his taxes and paid in full the amount he owed to the NJ Division of Taxation.

Yet eight months later, he was still receiving notices of non-payment from Taxation. Furthermore, Taxation stated that the lack of payment resulted in over \$170.00 in penalties, fees and interest.

OCR contacted Taxation on J.G.'s behalf and learned that the check was inadvertently forwarded to the IRS. OCR's Advocate Representative contacted the IRS and worked with them to have the check refunded back to the State of New Jersey. At OCR's request, the NJ Taxation Liaison Unit waived all penalty, interest and fees. Within three weeks, J.G. received a notice from taxation advising him that his debt had been liquidated.

Evicted Without Cause

S.K., 78 years-old, has lived in the James Baxter Building in Newark for the last 27 years in public housing. In July 2008, K.S. contacted the office in distress when she learned she was going to be evicted for non-payment of rent.

S.K. had been paying her rent by money order and mailing it to the same address for many years. S.K. did not have proof the Housing Authority cashed her rent checks and the bank and/or post office were unable to provide the cancelled money order.

Upon S.K.'s call to OCR, an Advocate Representative investigated the matter and found that the Housing Authority never notified S.K. that they changed the address for payments by mail. The OCR Representative researched and was able to secure the previous rent payments which the Housing Authority immediately applied to S.K.'s account.

If not for the efforts of OCR, S.K. could have been homeless.

Just Trying to Keep the Family Together

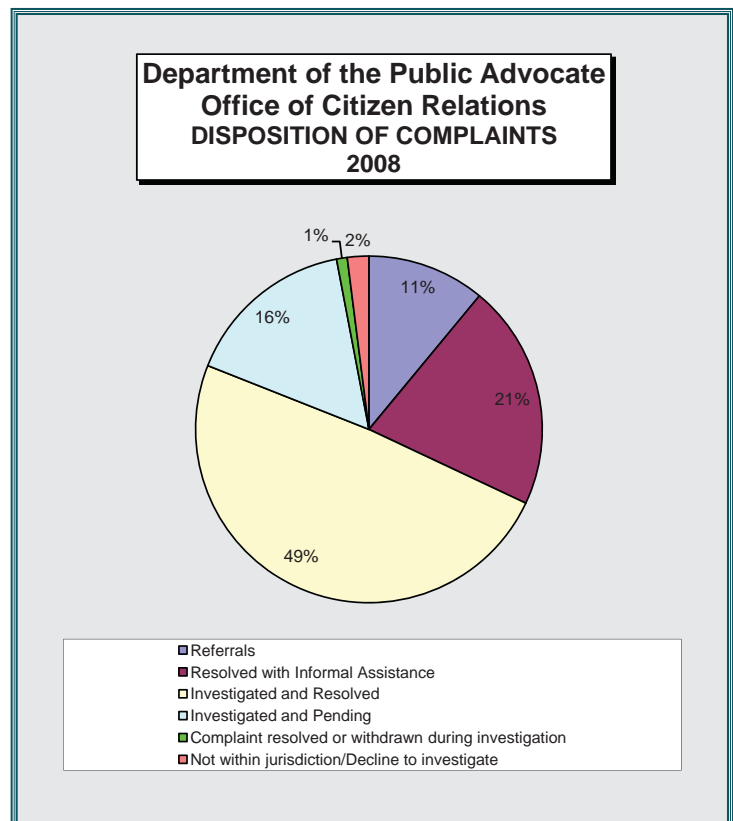
Recently out of work due to an injury and without a steady income, G.J. was struggling to support her three grandchildren, who were in her custody through NJ Division of Youth and Family Services (DYFS). In an effort to take care of herself and her family, G.J. was on the verge of depleting her savings. G.J. contacted DYFS for any assistance they could provide. Unfortunately, due to placement protocols, DYFS representatives informed G.J. that they could not provide any additional assistance.

Upon G.J.'s call to OCR for help, an OCR Advocate Representative contacted KINSHIP Navigator on her behalf and assisted her over the phone to fill out an application and expedite G.J.'s matter. Within a few weeks, G.J. was approved for various services including funding for the children's care as well as clothing allowances. G.J. was extremely excited and relieved with the assistance OCR was able to provide.

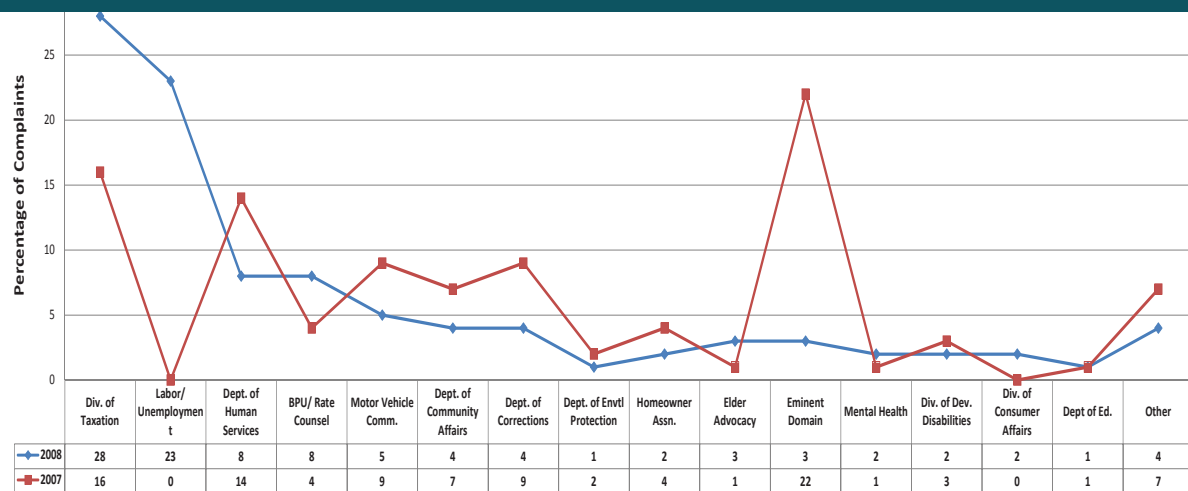
A Look at the Numbers

Since the inception of the Office of Citizen Relations in November of 2006, the Office has received and processed 5,419 complaints regarding New Jersey state and local government agencies, as well as, private complaints. In 2008, the Public Advocate fielded 3,124 complaints and requests for assistance. In the previous year, the Public Advocate processed 2,048 complaints.

Along with calls regarding utility issues, elder advocacy, and property rights, other significant issues during 2008 include cases involving the Division of Taxation, the Motor Vehicle Commission, DYFS, and the Department of Labor. Most notably, Department of Labor complaints, mainly related to unemployment, made up 23 percent of the Office's entire caseload. Concerns regarding the Division of Taxation jumped to 28 percent from 16 percent in 2007. The Office also saw a decrease in eminent domain complaints, from 22 percent in 2007 to 3 percent in 2008.

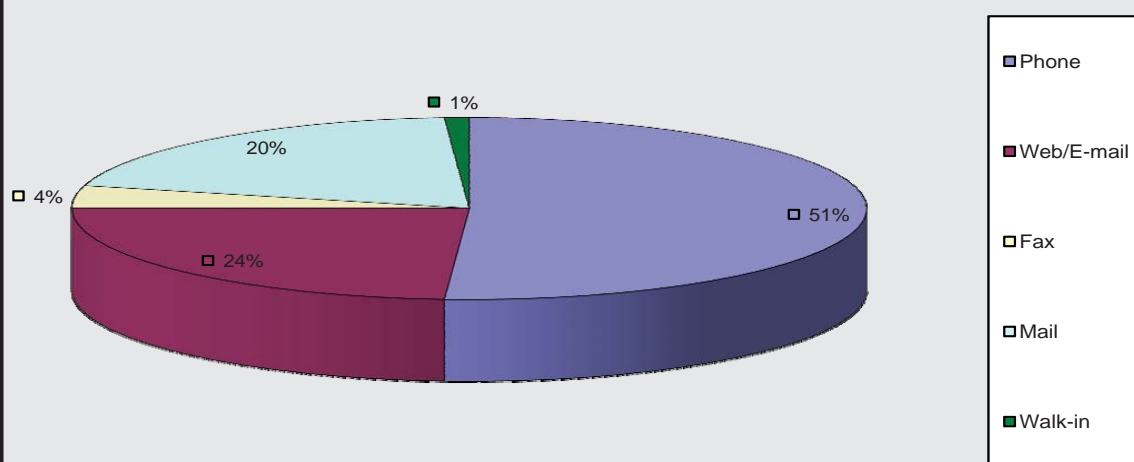


2007-2008 Complaint Comparison



In 2008, the Public Advocate fielded 3,124 complaints and requests for assistance. In the previous year, the Public Advocate processed 2,048 complaints.

Department of the Public Advocate Office of Citizen Relations Requests For Assistance 2008



The majority of OCR's requests for assistance are via telephone or through email. In 2008, the Office also conducted outreach to raise awareness of OCR's role in state government. Staff have personally met with all legislators and/or their staff for the purposes of advising them about how the Office can effectively assist them in helping their constituents. In addition, OCR staff attend various conventions and participate in numerous community initiatives and symposiums in conjunction with local government agencies as well as with legislators.

Resolving Disputes Without Litigation

Established in 1974, the Office of Dispute Settlement (ODS) began as a small community mediation program and has evolved into one of the leading public dispute resolution offices in the country. ODS saves the state and private parties millions of dollars every year by resolving disputes quickly and efficiently.

The Office of Dispute Settlement provides neutral mediation services to resolve a wide variety of disputes. The office mediates all types of public disputes and civil litigation in the state and federal courts; trains judges, attorneys and state agency personnel in negotiation, mediation and settlement techniques; coordinates and promotes the use of dispute resolution in state government and mediates cases for federal government dispute resolution programs.

Office Of Dispute Settlement

Type of Case	# Cases
Court Mediation	72
Pre-litigation	5
Home Warranty	375
Open Public Records	90
Underground Facilities	166
Federal Mediation	9
Total Cases	717
Judges, attorneys and state agency personnel trained:	270

In 2008 ODS handled 717 cases and trained 270 people. ODS' services have saved millions of dollars in litigation costs, hundreds of hours of judicial time and helped the courts relieve their civil case backlog. ODS is a recipient of the CPR Legal Program National Award for "Outstanding Practical Achievement in Dispute Resolution" for its mediation of high-profile court cases.

Statewide Foreclosure Mediation Program

In 2008 ODS assisted in designing a cutting-edge foreclosure mediation program that will give thousands of NJ residents the opportunity to directly negotiate with their lenders in an effort to keep their homes. This program, if successful, may well become a model for the rest of the nation to follow in dealing with the mortgage crises facing the country.

ODS assisted in designing a cutting-edge foreclosure mediation program that will give thousands of NJ residents the opportunity to directly negotiate with their lenders in an effort to keep their homes.



Working in conjunction with a number of other state agencies and the state courts, ODS helped design a statewide foreclosure mediation program. Under this program, any homeowner who receives a foreclosure notice through the state courts has the right to request that a mediator sit down with the homeowner and the lender in an attempt to work out a mutually agreeable settlement of the dispute. With approximately 60,000 foreclosure cases expected to be filed in New Jersey in 2009 it is anticipated that this mediation program will handle approximately 16,000 cases and will potentially allow thousands of people to keep their homes who might otherwise lose their residences.

As part of this mediation program, which was officially launched by the Governor in January 2009, ODS trained over 700 court mediators. In addition, ODS will be mediating these cases for the courts and assisting in the implementation of this critical initiative.

Court Mediation

In 2008, the office mediated 72 cases that were pending in the state and federal courts in New Jersey. These cases involved subjects such as: environmental clean-up, employment, construction, insurance coverage and personal injury. Many of the cases that ODS mediates involve the state as a party. An example of ODS mediating court cases in the public interest is the mediated settlement reached in *Bass River v. State of NJ*.

In *Bass River v. State of NJ*, a small town in Burlington County sued the state's Departments of Environmental Protection and Transportation, the Turnpike Authority, and Burlington County to determine ownership of a dangerous orphan road adjacent to a popular state park. The pothole ridden roadway had already caused significant accidents and necessitated a partial closing of the roadway. This adversely impacted the state park, local commuters and potential emergency egress routes. The mediated settlement resulted in immediate temporary repairs, a long term remedial action plan, continued road maintenance and improved local, county and state relations. The settlement saved the state significant litigation costs and helped avoid further park closures and serious roadway accidents.



Dispute Resolution Programs

The Office of Dispute Settlement also manages two New Home Warranty arbitration programs which involve arbitrating disagreements between homeowners and builders. Under this program, a panel of neutral construction experts resolves disputes between homeowners and builders regarding defects in new home construction. In 2008 ODS handled 200 New Home Warranty cases and 175 Residential Warranty disputes.

Under an inter-agency agreement with the

Government Records Council, the Office of Dispute Settlement mediates disputes arising under the NJ Open Public Records Act (OPRA). ODS staff mediate between the person who is denied access to a government record and the custodian who is responsible for providing such access. Last year, ODS mediated 90 of these cases.

Under state law, all disputes between excavators and underground facilities operators involving amounts less than \$25,000 must be submitted to ODS for resolution through alternative dispute resolution procedures. The goal of the amendment is to provide a fast, efficient and cost-effective way to resolve disputes where utility lines are damaged during digging. ODS handled 166 of these cases this year.

ODS serves as a member of the Equal Employment Opportunity Commission (EEOC) and U.S. Postal Service mediation roster in order to mediate employment disputes. In 2008 ODS mediated 9 of these cases.

Dispute Resolution Training

Because of the proven track record of dispute resolution and clear benefits to all parties, the Public Advocate continues to expand the reach of the Office of Dispute Settlement by training increased numbers of legal, law enforcement, and government officials.

Last year, ODS trained 270 judges, attorneys and state agency personnel, an significant increase from the previous year. The ODS also trained more than 60 state police as part of that agency's continuing management training seminars.

Through the Office of Dispute Settlement, the Public Advocate has created and hosts an inter-agency working group to expand the use of dispute resolution in state government. In addition, ODS staff serve as members of the Supreme Court Committee on Complimentary Dispute Resolution and chair the Subcommittee on Education. The Supreme Court Committee reviews rules relating to the use of mediation in the state courts and makes recommendations to the NJ Supreme Court.

Humane Treatment for Inmates

While the Department of Corrections (DOC) has an obligation to ensure that all persons committed to State correctional institutions be provided with the custody, care, training, and treatment needed to prepare them for reintegration into the community, oversight by an independent body is essential to ensure the integrity of the system, administrative accountability, and to protect the rights of the incarcerated. This is the purpose of the Public Advocate's Corrections Ombudsman.

Through this office, inmates can seek redress for issues and concerns encountered while incarcerated regarding their living conditions and allegations of maladministration or inaction by correctional authorities. The office investigates complaints where the inmate has failed to get satisfactory results through available institutional channels.

In 2008, the Corrections Ombudsman fielded 9,235 complaints and calls from inmates in New Jersey's state prisons.

Lawsuit Prevention

In the last 36 years, the Corrections Ombudsman has helped reduce the number of lawsuits filed against the New Jersey Department of Corrections by responding to inmates' concerns and encouraging resolution through institutional remedies and informal mediation. While it is difficult to quantify the actual savings in litigation costs, the office has clearly reduced the number of lawsuits associated with inmate complaints.

Pulse of the Institutions

The office continues to monitor the pulse of the institutions in an effort to relieve the pressures, tensions and hostilities that abound within them by means of more open communications. The Corrections

Ombudsman provides a release valve which serves to prevent potential serious disturbances at the prisons. Inmates correspond with the Ombudsman using a standardized, bilingual form through which they can express their concerns or complaints in an organized manner.

Special Assignments

In 2008, Ombudsman staff participated in 36 special assignments, consisting primarily of searches of congregate and living areas in correctional facilities. Attendance at these searches helps to minimize allegations of destruction of inmate property and other complaints. Inmates as well as administrative staff welcome the Ombudsman's role in this process.

Primary Inmate Issues and Concerns During 2008



Common inquiries center on the accuracy of the calculation of inmates' anticipated maximum release dates, requests for updated calculations of their time, earned work and minimum status credits, and concerns regarding sentencing information noted on their records. These contacts totaled 1706 inquiries, or 18 percent of Ombudsman's cases.

A large number of inquiries regarded the inmates' eligibility for reduced custody, community release, work assignments and visitation program procedures. There were 869 such inquiries, or 9 percent of the total.

Nine percent of all inquiries, or 901 cases, involved dissatisfaction with medical treatment or complaints about a lack of medical treatment, delays with processing medication, delays in referrals for outside consultations, discrepancies concerning medical co-pays and being treated poorly or with disrespect by medical personnel.

Nearly 6 percent of all inquiries, or 601 cases, involved requests for updated parole

eligibility dates, accuracy of the calculations of their parole eligibility release dates, status of parole hearing results and complaints that they are overdue for hearings.

Lost, damaged or missing property, or delays in receiving property after a transfer from one facility to another, is another common subject of inquiries by inmates. These comprised 1041 cases, or 11 percent of the Ombudsman's caseload. Another frequent concern raised by inmates involves the processing of inmate wages, deductions for fines and penalties, delays with posting of money orders received, medical co-pays, and discrepancy with canteen orders and related refunds. These 789 inquiries comprised 8 percent of all cases. The balance of issues and concerns raised by inmates include requests for institutional transfers, allegations of harassment by other inmates or staff, concerns about mail and telephone usage, and allegations of inappropriate discipline.

In addition to addressing specific complaints or concerns, the Ombudsman tackled a number of other issues affecting the inmate population including living conditions for state inmates housed in county jails and concerns about the medical and dental care provided to prison inmates.

In February 2008, the Assistant Ombudsmen began collecting data to be used in an Assessment and Evaluation of the Inmate Request and Remedy system that is utilized by state inmates to address questions or concerns within the prison facilities. The sample of over 800 forms represented 10% of the actual inmate forms submitted at each facility during the month of October 2007.

The assessment tool developed by the Assistant Ombudsmen reflected specific items on the form:

1. Was the remedy/request clear and concise?
2. Was the form filled out completely by the inmate?
3. Was the 30 day turn around time being followed?
4. Was the form being treated (by the in-

mate) as routine or as a remedy?

5. Did the coordinator agree with the inmate's designation?
6. Did the coordinator correctly identify the subject of the inmate's request?
7. Was the response legible?
8. Were the signatures of the staff and administrator legible?
9. Were there attachments with the file copies, if appropriate?
10. Was the form signed?
11. Did the inmate file an appeal?
12. Was the appeal signed by the administrator?

In addition to completing an audit of the form, the Assistant Ombudsmen also toured each of the institutions to see if the forms were available in the locations required by the policy. The Assistant Ombudsmen also interviewed the tracking coordinator and the Administrator at each facility.

Although the data collection was completed by the end of April, the calculation of the results and the evaluation of those results were delayed due to staffing concerns. Generally, the system appears to be working well, although a number of recommendations will be included in the final report. The entire project should be completed by the end of Spring 2009.

The staff have also begun to address systemic property issues by obtaining policies and procedures from County Jail and Residential Community Release Program Staff in order to better track inmates' property.

Former Corrections Ombudsman Luis Silva passed away unexpectedly after battling an extended illness in August of 2008. All staff have worked diligently in order to maintain the daily operations while grieving the loss of Luis Silva.

7 Guarding the Interests of Ratepayers

Advocating for Fair Prices

The Public Advocate, through its Division of Rate Counsel, ensures that utility consumers receive safe, adequate and proper service at affordable rates. One of the Rate Counsel's major functions is to examine all requests for rate hikes and protect consumers from unfair or unjustified increases in their electric, gas, cable TV, telecommunications or water bills.

Rate Counsel has legal standing to challenge proposed increases and represent the ratepayers on any changes to utility service. The Division also represents consumers in a limited number of insurance matters.

In 2008, Rate Counsel negotiated and won significant concessions for water ratepayers. Faced with total requests for water rate increases of over \$155 million, Rate Counsel negotiated settlements that resulted in almost \$65 million in savings to ratepayers. In one case, Rate Counsel's testimony led to a \$25 million

reduction in the cost to New Jersey American Water's ratepayers for the acquisition of Trenton's outside water system. In another, Rate Counsel is challenging an attempt by one water company to gain approval to institute a self-implementing charge that would increase its rates up to 7.5% between rate cases.



In other cases, Rate Counsel saved ratepayers money by negotiating settlements or persuading companies to cancel or scale down programs that were not cost-effective. Rate Counsel also negotiated a settlement with New Jersey Natural Gas in its rate case that saved ratepayers \$26 million. On the electric side, Rate Counsel's advocacy regarding Advanced Meter Infrastructure ("AMI") led Atlantic City Electric to withdraw its request to install AMI across its service territory immediately, and instead proceed to do a pilot program that would test the cost-effectiveness of AMI. This alone saved ratepayers \$128 million.

The Division also worked on other fronts to protect ratepayers. In the legislative arena the Division successfully advocated against

a bill that would have effectively eliminated rate regulation and prudency reviews for electric utility rates. The Division, through its website and publications, helps to educate consumers on important utility and conservation measures. The Division also fields inquiries from consumers and provides information to assist them with their questions and concerns. Last year, the Division responded to approximately 300 consumer inquiries.

Championing Ratepayer Interests in Energy Policies

Long-term Energy Planning

The Division actively participated in the development of the Governor's Energy Master Plan. Based on the recommendations in the Plan, several initiatives to promote the goals of the plan, such as initiatives to foster energy efficiency, renewable energy and reduced peak demand, have been instituted. Rate Counsel has continued to be an active participant in these initiatives, aiming to assist the State in achieving the Master Plan's goals while minimizing any increase in rates.

Fostering Competitive Energy Policies

Since the adoption of the Electric Discount and Energy Competition Act (EDECA) in 1999, the New Jersey Board of Public Utilities ("Board" or "BPU") has overseen the purchase of electricity by the four investor owned utilities on behalf of their customers. Starting in 2002, the Board has endorsed an auction process for basic generation service ("BGS") which has grown to a \$6.5 billion per year auction to buy electricity.

Unfortunately, New Jersey ratepayers continue to pay exorbitant costs for energy supplies while deregulation of generation has led to record profits for generating companies and has reduced the incentive to build new generation plants. Rate Counsel has been actively participating in the BGS Auction proceedings before the Board to advocate for New Jersey ratepayers to ease the burden of energy costs and to combat

unjust and unfair rates. Rate Counsel has argued for more transparency in the procurement process to ensure fair dealing from the bidders.

While the decline in commodity costs held BGS electric rates fairly steady in this year's auction, Rate Counsel continues to argue for changes to the process that would allow the State to more effectively protect ratepayers from high prices and price volatility. Rate Counsel continues to advocate for a "portfolio manager" approach, similar to the role of a mutual fund manager to purchase energy for the state. By creating a diverse mix of available options to obtain energy and capacity in New Jersey we can insure our energy future. We also advocated for entering into longer term contracts for price stability, and requiring that Class I renewable resources be included with the long term contracts to encourage industries to develop new renewable technology. The Division continues to support energy efficiency measures as part of the resource mix to help us meet the ambitious goals set by the Governor to reduce energy needs by 30 percent by the year 2020.

The Division is a staunch supporter of energy efficiency measures as part of the resource mix to help us meet the ambitious goals set by the Governor to reduce energy needs by 30 percent by the year 2020.

Advocating for the Fair Allocation of Transmission Costs

Rate Counsel has taken an active role before the Federal Energy Regulatory Commission ("FERC") advocating for a fair allocation of electric transmission costs. In the PJM region, the FERC has ruled that the costs of transmission lines above 500 kV should be allocated regionally and that the cost of lines below 500 kV should be allocated to those customers that derive the benefit. This has led to several cases in which Rate Counsel has argued for a fair allocation of costs for New Jersey ratepayers, seeking reductions in New Jersey's allocation where the lines will primarily be serving customers in New York or in other parts of the PJM grid. In one case, Rate Counsel succeeded in convincing a federal administrative law judge

to require merchant facilities to pay a larger amount for reliability upgrades, thus saving New Jersey ratepayers \$8.9 million.

Similar efforts are being made regarding gas transmission. In a recent settlement with South Jersey Gas, the Company made substantial reductions in the fixed costs it pays to interstate pipelines for the interstate transportation and storage capacity used to deliver natural gas to the Company's natural gas delivery system. This will result in a \$12.1 million savings that will flow through to ratepayers through reductions in the Basic Gas Supply Service ("BGSS") charge.

Encouraging Cleaner Energy

Promoting the Transition to Renewable Energy

Rate Counsel has long been a proponent of encouraging renewable energy by developing strong and competitive renewable energy markets. For solar energy, Rate Counsel has advocated for an open market approach as a way to obtain the best value for the solar energy generated by homeowners and small businesses. The Board has adopted this approach, and has ordered the utilities to develop programs to support the market through long-term contracts to purchase solar energy. Rate Counsel is also participating in a similar initiative to support the development of wind energy. Rate Counsel has been actively involved in the development of these programs and in ensuring that any costs charged to ratepayers are reasonable and no higher than absolutely necessary.

Rate Counsel also negotiated a settlement with the state's largest utility this year for a pilot program through which the utility would provide \$100 million in loans for the



development of solar energy. That program is now being expanded, and the utility has also filed a petition to invest another approximately \$700 million in solar energy. Rate Counsel will continue to serve as the voice for ratepayers with respect to these initiatives.

Promoting Energy Efficiency and Job Creation

Rate Counsel has taken a leading role in implementing the Governor's initiative to develop energy efficiency ("EE") programs as an economic stimulus for the state. Electric and gas utilities have filed petitions to invest \$230 million in EE programs as a platform for job growth and energy demand reduction. The target savings goal is to achieve about 1.2 million MWh for electric and 2.6 million dekatherms for gas. As economic conditions worsened, this program was expanded to include an investment of approximately \$700 million in investment in infrastructure as a means to stimulate job creation. Rate Counsel has taken the lead in the negotiations to ensure that the infrastructure investments are incremental, will create jobs, and will be thoroughly examined for prudence and reasonableness in a rate case for each company. For the energy efficiency investments Rate Counsel is also advocating that only cost-effective and job-creating projects get implemented through these stimulus programs.

Challenging Deregulation of Telephone and Cable

This year, Verizon and Embarq filed petitions seeking to deregulate rates for basic telephone service. Rate Counsel negotiated a settlement that preserved regulation of basic residential and single-line business service for at least the next three years. The settlement also limited the companies to minimal increases during that period for those services as well as for directory assistance, and basic installation. The settlement also included a freeze on rates for lifeline service, protecting the most vulnerable of New Jersey's telephone customers.

In cable, Rate Counsel has actively opposed petitions to deregulate rates and services in New Jersey towns. Rate Counsel has also played an active role in monitoring the rollout of Verizon's FIOS service in multi-dwelling units and in resolving disputes between Verizon and other cable operators to ensure that public, government and educational channels are provided to all customers.

Advocating for Seniors, and Disabled and Low Income Ratepayers

Though our participation in the Universal Service Fund working group, we have worked with the BPU and other State agencies to facilitate the enrollment of elderly and disabled persons in the BPU's Universal Service Fund ("USF") and other energy assistance programs.

In 2003, the BPU established the USF program and mandated that persons enrolled in the State's PAAD and Lifeline programs, would be screened for eligibility for USF benefits based on existing information in the State's Lifeline database. The BPU failed to keep up automatic screening and, after both formal and informal efforts to persuade the Board to follow its mandate failed, Rate Counsel filed an appeal. As a result of that appeal, the Board restored automatic screening for some Lifeline recipients. The BPU also agreed to work with other State agencies to develop changes in the PAAD/Lifeline application that will allow Lifeline applicants to be screened for both LIHEAP and USF benefits for the next heating season.

Rate Counsel is also participating in an inter-agency effort to coordinate several State and Federal programs that provide benefits to low-income New Jersey residents, including PAAD/Lifeline, Food Stamps, the Low-Income Home Energy Assistance (LIHEAP) program, and the USF program. We are active members of committees that are

developing recommendations to facilitate the use of information in the Food Stamps database by other programs, and to simplify the LIHEAP application process.

Water Conservation Tips



- Turn off the water when brushing teeth or shaving.
- When purchasing a new toilet, consider one that uses less than the five to seven gallons of water a conventional toilet uses.
- Never pour water down the drain if there is another use for it such as watering a plant or cleaning around the home.
- Sweep patios, driveways, and sidewalks. Never hose paved surfaces.
- When washing your car, be conservative; wash with a bucket and only turn on the hose to wet and rinse your vehicle.
- Collect and use rainwater for watering your garden.
- Direct downspouts or gutters toward shrubs or trees.
- Insulate hot water tanks and hot water pipes to reduce water-heating costs and save water; insulation keeps the water hotter longer and wastes less water.
- Install a high-pressure, low flow showerhead for more efficient water use.
- Take food out of the freezer early and place in the refrigerator to allow plenty of time for thawing. Thawing frozen goods under a running faucet wastes water.

Additional conservation tips can be found inside Rate Counsel's Consumer Conservation Handbook, which can be downloaded from www.state.nj.us/publicadvocate/utility or by calling for a free copy at 973-648-2690.

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Office of the Child Advocate Promoting Positive Change for Children

The New Jersey Office of the Child Advocate is an independent state agency dedicated to promoting positive change in public policy and practice to improve the safety, health and well-being of New Jersey children, especially those with the greatest need.

To achieve this goal, the Child Advocate identifies important issues that require systemic change. The Child Advocate works closely with Legislators, government officials, community stakeholders and other advocates to craft innovative solutions to identified problems. The Child Advocate then monitors implementation of these reforms to make a real difference in the lives of New Jersey's children and their families.

The Child Advocate has broad statutory authority to protect children's rights and to ensure they receive the care, supervision and safety to which they are entitled. This authority is used to monitor systems that serve children and families, including the child welfare, juvenile justice and child behavioral health systems.

The Office of the Child Advocate's jurisdiction extends to all public and private set-

tings in which a child has been placed by a State or county agency or department, including juvenile detention centers, group homes, foster homes, residential treatment centers and shelters.



The Office underwent a transition in July 2008 when then Child Advocate E. Susan Hodgson retired. Governor Corzine appointed Public Advocate Ronald K. Chen to assume the role of Acting Child Advocate. While completing work on projects already in progress, the Office, under Com-

missioner Chen's leadership, reviewed its policy agenda and identified issue areas that would benefit most from the Office's unique advocacy authority.

The Child Advocate's Primary Goals

That review resulted in the clear identification of the Office's primary goals, as well as a revised agenda that touches on many areas of child well-being, including child protection, physical and mental health, juvenile justice and children's legal rights.

The Office concentrates its efforts in six key issue areas:

- Improve child safety by advocating for relevant reforms of the child protection system and by monitoring other systems that serve children.
- Ensure that all children have safe, permanent homes.
- Enhance healthcare for children and youth.
- Improve the care of children with mental health needs.
- Help juveniles involved with the legal system to forge productive lives.
- Strengthen children's legal rights.

Child Protection. A primary focus of the Office of the Child Advocate is to ensure that children who have been abused or neglected – or are at risk of abuse or neglect – receive the needed protections and services from relevant state agencies. The Office assists the court-appointed monitor in measuring progress of child welfare reforms and is working to strengthen the review of cases in which children have died due to abuse or neglect.

Permanency. It is critical that the state do everything possible to ensure that children in out-of-home placement receive permanent homes in a timely manner, whether through reunification with their families or, when that is not possible, through adoption or permanent placement with relatives. The Child Advocate is engaged in specific projects to promote stability and permanency for children in foster care, including improving parent-child visitation practices and ensuring that foster children are allowed to remain in their “school of origin” when they enter out-of-home care.

Child Health. A healthy start leads to a healthier, more productive life. Child health continues to be a primary policy area for the Child Advocate, as the Office works to ensure that all children have health insurance and to measure the quality of health-

care provided to children in out-of-home placement.

Mental Health. Children who have mental and behavioral health needs require appropriate services and interventions to grow into stable, productive adults. The Child Advocate works to improve the systems that serve these vulnerable children and their families and will launch a public education campaign about youth group homes.

Juvenile Justice. When youth become involved with the legal system, it adversely affects their chances of building productive lives. The Child Advocate is launching several initiatives aimed at improving outcomes for youth involved with the juvenile justice system, including a project designed to improve youth's chances for success when they leave secure care and re-enter their communities.

Children's Rights. Ensuring that children's legal rights are protected and strengthened is another key focus of the Office of the Child Advocate.



Improving Child Safety

The Child Advocate released a report in December 2008 that found allegations of child abuse in institutional settings were being investigated in a more timely manner and the conclusions reached in those investigations were largely consistent with state law.

The study also found that a significant number of cases, while not rising to the legal level of child abuse and neglect, still had troubling issues involving child safety that must be addressed.

As part of its role in monitoring New Jersey's child protection system, the Child Advocate conducted an in-depth review of 90 investigations of allegations of abuse and neglect involving 131 children living in out-of-home settings, including resource homes, group homes, residential treatment centers and juvenile detention centers. These investigations were initiated between January 2007 and June 2007.

In 91 percent of the cases, the Child Advocate's review team agreed that the investigative findings were consistent with state law. Based on the information in the file, the review team determined that an additional four cases also met the legal definition for abuse or neglect. The team thus found that 7.7 percent of cases in the sample merited substantiation.

Findings (<i>n</i> = 90 cases)	Number	Percent
Agreed findings consistent with state law	82	91
Disagreed findings consistent with state law	4	4
Insufficient documentation to determine whether findings consistent with state law	4	4

Acting Child Advocate Ronald K. Chen commended the Department of Children and Families for the progress it has made in completing these critical investigations in a more timely manner, but noted that the study identified some areas to which additional attention should be paid. For example, the audit found that while some parts of the investigations were handled appropriately, the Department of Children and Families should devote additional resources and attention to the collection and documentation of information.

Key Recommendations

Address Issues Concerning the Two-Tier System. The study found that the definition of the term "unfounded" in a 2-tiered findings system was in some cases susceptible to ambiguity. DCF should amend regulations to explicitly describe the range of cases that fall within the "unfounded" category.

Examine the Child Abuse Registry. Investigators expressed concerns over the serious consequences that result from a substantiated finding and the resulting lifelong inclusion on the child abuse registry, regardless of the nature of the allegation. The Child Advocate will conduct initial research on this issue for the purpose of initiating a conversation with stakeholders and DCF about whether the laws and regulations governing New Jersey's registry should be revised.

Improve Corrective Action Monitoring. The Department should institute clear measures for ensuring that all cases involving corrective action plans are appropriately identified and tracked and that safety concerns are addressed in a timely and appropriate manner.

Expand Supervisory Review. DCF should institute a review process of "unfounded" cases in which significant concerns are uncovered to ensure appropriate findings and follow-up. This should be similar to the review process for cases in which investigators initially arrive at a conclusion that an allegation should be substantiated.

Quality Assurance. In accordance with the federal court settlement agreement, the Department of Children and Families is developing a quality assurance process. This process must include vigilant monitoring of the institutional abuse investigation process, including the gathering of information, the completion of safety assessments and notification of appropriate parties, including parents. The development of the quality assurance system should include input from the Office of the Child Advocate.

Strengthen Investigative Training. The Department must provide more training in the various procedures, techniques, legal concerns and interviewing skills required to conduct thorough investigations.

Strengthen Documentation Policy. Lack of consistency in documentation was apparent in many of the case records. This issue should be addressed with a revised policy that clearly defines the information investigators must document, especially with regard to the level of detail that must be recorded about who was interviewed and what was said. The Department must also monitor implementation of this new policy to ensure investigators are adhering to it.

In response to the report, the Department of Children and Families submitted a corrective action plan that included proposals to institute a more stringent monitoring system for corrective action plans and supervisory review of certain cases. The Department also agreed to conduct quarterly audits of cases to ensure vigilant monitoring of the IAIU investigation process. In addition, the plan called for increased training of IAIU staff, along with joint training with law enforcement. The Child Advocate continues to work with the Department to ensure these actions are taken to provide improved protections for children in out-of-home care.

Strengthening the Review of Child Fatalities

In August 2008, the Child Advocate issued a review of 2007 child fatalities due to abuse and neglect. This report marked the first time the Office documented in an annual report the deaths of all New Jersey children who died or nearly died as a result of abuse or neglect. While the tendency has been to focus on those children under the supervision of the child protection system, the majority of these 29 children never had any involvement with the New Jersey Division of Youth and Family Services.

The Child Advocate found that measuring the overall functioning of the state's child protection system through a small number of cases with the worst outcome – a child death – is an unreliable measure of a system's operation on a larger scale. Through our own internal review of the cases, we determined that a more effective way to use these cases to instruct future efforts to protect children is to strengthen the current child fatality review process.

To that end, the Child Advocate engaged in discussions with the Child Fatality and Near Fatality Review Board and the Department of Children and Families to identify ways to enable this process to result in frontline changes to case handling.

Through this process, the Child Advocate has been able to elevate certain cases for expedited review, which has led to focused discussions in the field to address areas

that could be strengthened to better protect children and prevent future tragedy.

A formal review process is still being developed, but it is expected that a team approach will emerge that includes the review board, the Child Advocate and the Department to identify salient issues and bring them to frontline staff and supervisors to spur real and lasting changes in the field that will result in improved child safety.

The New Jersey State Central Registry: An Assessment

In 2008, the federal court-appointed Monitor of New Jersey's child welfare reforms conducted an independent assessment of the Department of Children and Families' child abuse and neglect hotline, the State Central Registry. The Monitor was joined in the assessment by representatives from the Office of the Child Advocate, as well as staff members from the DCF Quality Analysis and Information unit.

The assessment was intended to explore the following questions:

1. Are screening decisions appropriate?
2. Is screening documentation accurate and sufficiently complete to enable the Division of Youth and Family Services field office case managers to respond appropriately?
3. Is complete and accurate information reaching the DYFS field office case managers in a timely manner?

In completing the assessment, the review team listened to 266 calls, which were randomly selected. For each of the 266 calls, the team also reviewed accompanying documentation from the state's computer system, known as NJ SPIRIT. This was done to compare and evaluate the content of each call versus the formal documentation of that call.

The study teamed focused on whether the screening decisions were appropriately made according to law and policy and evaluated the competency and professionalism of the screener. Relevant state policy, training materials and other resources were also reviewed. Team members interviewed

senior management, conducted focus groups with screeners and supervisors and also observed the hotline's daily operations.

Overall, the findings from the report were generally positive and indicated that the state has made many strides toward improving the hotline's functionality. However, constructive recommendations were provided for continued improvement. These recommendations and the full report are available from the Center for the Study of Social Policy (www.cssp.org).

Ensuring Children Have Safe, Permanent Homes

It is critical that the state do everything possible to ensure that children in out-of-home placement are given permanent homes in a timely manner, whether through reunification with their families or, when that is not possible, through adoption or permanent placement with relatives.

In 2008, Child Advocate staff researched a host of different issue areas related to permanency and stability for children in foster care, with the goal of identifying areas in which the Office could advance concrete change that would result in more children being given stable, permanent homes more quickly.

Two key issues emerged: school stability and parent/child visitation.

School Stability

In 2008, Child Advocate staff began work on a project aimed at promoting school stability for children in foster homes. Current state law mandates that a foster parent's place of residence be considered the child's residence for the purposes of deciding which school the child will attend. This results in many children being forced to change schools, sometimes multiple times over the course of their stay in the foster care system. Research documents that this has significant detrimental effects, especially since the local school may be the only source of stability for many of these children.

In late 2008, Congress passed the Fostering Connections to Success and Increasing Adoptions Act. Among its many provisions, this legislation requires states to coordinate with local schools to ensure that children remain in their school of origin, unless it is not in a child's best interest to do so.



In 2008, Child Advocate staff began work on a project aimed at promoting school stability for children in foster homes.

The Child Advocate has examined successful efforts in other states to promote school stability and is exploring ways to bring that same success to New Jersey. The Office is in discussions with relevant state departments and expects to engage stakeholders in a public debate of the issue to forge the best possible solutions, with the goal of building the chances that children in foster care succeed academically.

Enhancing Parent/Child Visits

One of the most important factors in reuniting families is consistent, quality visitation between parents and children who are in out-of-home placement. In 2008, the Child Advocate began exploring quality visitation programs and practices both inside and outside New Jersey. This will result in a report that will inform service providers and others involved in these families' lives about the importance of quality visitation and innovative ways to sustain and build the vital family bonds that can help ensure successful family reunification.

Enhancing Healthcare for Children and Youth

Health Insurance Coverage for All Children

Meeting the health needs of children and ensuring their access to health care and treatment continues to be a top priority for the Office of the Child Advocate. According to recent data, between 300,000 and 400,000 New Jersey children lack health insurance. This decreases their ability to receive quality medical and preventive care that contributes to lifelong health. New Jersey is taking steps to address these significant issues.

In July 2008, Governor Jon Corzine signed landmark legislation, sponsored by Senator Joseph Vitale, that requires all children to have health insurance by July 2009. This new law also created a working group comprised of members of the public and state agencies, including the Office of the Child Advocate, which vice-chairs the group. The group was charged with identifying ways to expand health insurance coverage to all children to meet the legislative mandate.

The group began meeting in September 2008 to develop recommendations for boosting enrollment and retention in New Jersey's publicly-subsidized health insurance programs, including Medicaid, NJ FamilyCare and NJ FamilyCare Advantage, the state's new insurance buy-in program. The working group held monthly roundtable meetings and conducted conference calls and community-based meetings to analyze New Jersey's current public health insurance climate and develop recommendations to strengthen enrollment, marketing, outreach and retention efforts.

The group contacted numerous national

health program experts and representatives from several states to gain insight into best practices and innovative programs that New Jersey could potentially replicate. The Office of the Child Advocate facilitated many of these discussions and played a leadership role in communicating with state and national experts to obtain important information to share with the larger working group. This information advanced the work group discussion and assisted in the formation of several recommendations to enhance health insurance enrollment, messaging and retention efforts throughout the state.



The group released a report in May 2009 that advocated for New Jersey to use a creative, multi-prong approach to outreach and enrollment efforts to expand health coverage to all New Jersey children. It also documented the need for an efficient, coordinated technology system to track outreach efforts and ensure coordination among various state agencies.

The group identified several important core areas that require attention and are critical to the success of the healthcare legislation:

- Improve efforts to identify and reach the uninsured.
- Use targeted, culturally-sensitive and language-friendly outreach to attract hard-to-reach families in their own communities.
- Develop interagency collaboration to match existing data within respective programs to facilitate identification of families, enrollment and retention.
- Implement creative and innovative strategies to ensure families enroll in and maintain health insurance coverage.
- Create coordinated partnerships, both mandated and voluntary, among state

agencies and between state agencies and county welfare agencies.

- Plan for technology infrastructure investments, including automation and data management improvements, and assess staffing and performance-related needs within state and local technology systems.
- Provide sufficient staffing resources and systems to support additional requests for public health insurance and other benefit programs.

While there was some existing collaboration among departments to identify and enroll uninsured children in NJ FamilyCare, the Work Group provided the opportunity for greater information sharing, strategic planning, project implementation and dialogue among state agencies and key stakeholders. The level of inter-departmental networking for the purposes of NJ FamilyCare outreach, enrollment and retention was significantly increased through the work group's efforts.

The group also reported that state departments are actively reviewing ways they can partner with NJ FamilyCare to help ensure that families are informed about the availability of free or affordable health coverage. Many of the recommendations in the report are already underway.

Despite the fact that all relevant departments are willing to work cooperatively to achieve the goal, additional work is needed to coordinate and implement various activities, the report said. A thoughtful planning process among all government entities serving children and families is needed, in concert with technological improvements that will create a streamlined and coordinated assistance program infrastructure. An inclusive planning process to determine which technological improvements are necessary across departmental data systems is in place and moving forward, the group reported.

Collaboration Among Agencies

In addition to its work on the recruitment and retention group, the Office of the Child Advocate has been actively addressing this important health insurance mandate in other ways. Based on our statutory responsibility to increase coordination and collaboration among State agencies, the Office contacted several State and community agencies to identify ways that we can work together to ensure more children have health insurance.

New Jersey is sending expedited applications to more than 165,000 parents who indicated that their children lacked health insurance. This collaborative effort, coordinated by the Child Advocate, is expected to result in thousands more children joining the ranks of the insured.

This has resulted in several innovative agreements among state agencies, such as using information received on the newly-revised 2008 tax return forms to target families we now know lack health insurance. With the Department of Treasury able to provide this information to the state Medicaid Office, New Jersey is sending expedited applications to nearly a quarter million families who indicated that their children lacked health insurance. This marks the first time that New Jersey had the actual names of uninsured children and this collaborative effort, coordinated by the Child Advocate, is expected to result in thousands more children joining the ranks of the insured.

The Office continues to work with various state, county and local agencies on similar initiatives.

Expanding Health Coverage of Juveniles

While youth reside in county detention, they temporarily lose any Medicaid coverage they may have had. Additionally, no clear protocols are in place to ensure that youth are enrolled in health insurance when they leave the detention facility, nor are there consistent efforts to ensure siblings and parents have coverage.

In 2008, the Child Advocate worked with

state Medicaid officials and juvenile justice stakeholders to launch a pilot program aimed at enrolling detained youth and any eligible family members in public health insurance programs.

After identifying counties willing to participate in the pilot project, the Office organized training for detention center staff to learn more about NJ FamilyCare's different insurance options and the application process. Under the pilot project, which was launched in April 2009, detention center staff will begin the application process with every juvenile who enters detention. This translates to thousands of at-risk youth each year. Not only will the centers begin the application process for uninsured youth, they will also strive to identify eligible siblings and parents. The Child Advocate hopes to see this initiative expand statewide.

The Office is also undertaking a policy initiative to petition the federal Medicaid program to allow youth in county detention to retain their Medicaid coverage while in detention. To date, 13 states have accomplished this, saving the counties significant dollars that can be reinvested in youth in other ways. The Child Advocate is working with the state Medicaid Office to build the case that New Jersey should be allowed to do the same.

Reducing Childhood Lead Poisoning

In 2008, Child Advocate staff intensified efforts to assist the Public Advocate in a growing and successful campaign to reduce childhood lead poisoning throughout the State of New Jersey.

A year-long investigation by the Public Advocate uncovered significant problems in the systems designed to protect New Jersey children from lead poisoning.

Since the signing of Governor Corzine's executive order (#100) and the release of the Department's report, *Getting the Lead Out: The Childhood Lead Poisoning Crisis in New Jersey*, state agencies and city officials have taken significant steps in better protecting children from lead hazards. They have also partnered with community organizations, as well as local health centers and hospitals to address this severe epidemic.

The Child Advocate assisted in these coalition building efforts with community-based organizations in municipalities that became involved in the Model Lead Safe City Initiative.



Since the signing of Governor Corzine's executive order, state agencies and city officials have taken significant steps in better protecting children from lead hazards.

Lead Consultant

The Child Advocate and Public Advocate are also working with a consultant to analyze the costs to New Jersey when children become lead poisoned. The goal is to determine the full social and economic impact that lead poisoning has on the taxpayers and the State. This includes an assessment of the immediate and long-term costs of childhood lead poisoning in New Jersey, such as loss of earning capacity, health care and case management costs and special education and juvenile justice expenses. The Child Advocate also collaborated with the Department of Health and Senior Services to provide the consultant with the most up-to-date data and health-related costs. The report is expected to be released in Spring 2009.

Free Lead Screening

The Child Advocate, Public Advocate, Attorney General's Office, the University of Medicine and Dentistry of New Jersey (UMDNJ) and Gloucester County collaborated to reach out to families whose children attended the Children's First Learning Center between April 2005 and August 2007, after the center's operator pleaded

guilty to falsifying lead test results for the center.

Arrangements were made for children who attended the center to have free lead screening tests at the Gloucester County Health Department. Parents who had worked at the center were also able to get tested. Health care professionals and state officials were available on site to answer questions about the testing. The results of the tests were sent to the child's healthcare provider for any needed follow-up.

Improving the Care of Children with Mental Health Needs

VisionQuest Investigation Leads to Systemic Solutions

The Child Advocate's investigation of a South Jersey treatment facility resulted in safer conditions for youth served there and identified significant systemic issues that, when addressed, can improve care for hundreds of youth in need of intensive residential treatment.

In a report released in July 2008, the Child Advocate documented the substantial progress that VisionQuest made in the months following the Office's investigation of the facility. As a result of a coordinated effort among the Department of Children and Families, VisionQuest administrators, an independent monitor and the Office of the Child Advocate, the VisionQuest campus is cleaner and safer. The children there report a greater sense of security and indicate that staff members are helpful and available. They also say the treatment they receive is effective. Restraint use, runaway behavior, staff turnover and inadequate staffing have all been significantly reduced, while staff training has improved.

The findings of the Child Advocate's investigation have implications that extend beyond VisionQuest. In the course of this investigation, it was necessary to examine the systems currently in place to monitor the care and treatment of children at state-contracted facilities. Through this process, the Child Advocate identified key systemic issues that may have implications for other residential facilities that serve youth.

New Risk Identification System

To improve communications across state agencies, the Department of Children and Families is implementing a new approach to early identification of problems or issues at these treatment facilities. This new system is aimed at addressing problems before they reach a crisis level and put children's safety at risk.

A risk management team, comprised of various internal units charged with different roles in the oversight of congregate care facilities, is now meeting regularly to review data and share information about the different areas of oversight of each facility. This information will be used to track concerns at facilities and identify appropriate intervention to strengthen programs and reinforce the safety net for youth in congregate care.

Clarifying Unusual Incident Reporting

The Department is reviewing the administrative order that governs the reporting requirements for unusual incidents in an attempt to clarify which incidents must be reported. The Unusual Incident Report System is a critical process that can be used to identify problems as they occur both within and across residential facilities and serve as a catalyst for change and prevention.

The current system originated in the Department of Human Services and is geared toward use with adults. The reporting categories are inconsistent and somewhat subjective, causing confusion among reporters. This can result in providers either over-reporting or underreporting incidents.

In addition to addressing these systemic issues, Child Advocate staff continued to monitor VisionQuest's progress toward meeting the goals of 22 performance standards that were developed to measure progress toward the stated goals. Data for the last of these 22 benchmarks is expected in 2009. The Child Advocate will review those data to ensure continued safety and quality treatment at the VisionQuest campus.

Healing Homes: A Road to Recovery For NJ Youth

On any given day, hundreds of New Jersey children live in special homes where they work to rebuild their young lives. Some struggle to overcome mental health needs and master the coping skills needed to lead a productive life. Others are learning to feel safe again after being abused or neglected. Still other youth are entering adulthood with no family supports and are striving to forge close community connections with caring adults.



Group homes, like the one pictured above, in Bridgewater, NJ, give children and youth a safe place where they can heal and live more normally.

Unlike the impersonal, isolated environment of institutions, these healing homes give children and youth a safe place where they can heal and live more normally. Like any other child, these kids attend school, get part-time jobs, play sports, participate in community events and shop at the mall.

Unfortunately, some communities, often out of misunderstanding, react with fear and suspicion when a group home first comes to town. Some towns have threatened legal action to keep these healing homes from opening in their borders. Others have expressed concerns that these homes will depress property values.

In 2008, the Office of the Child Advocate began work on a public education campaign called Healing Homes. The campaign is designed to provide information to de-

bunk myths about youth group homes and expand understanding of the importance of this vital service for thousands of New Jersey children. Through this campaign, we are encouraging residents and local officials in towns around the state to embrace these programs and recognize that in strengthening our children, we strengthen our towns, our communities, our state and our future.

The Office expects to launch the campaign in May 2009. Materials, including informational brochures, an advisory on the legal protections that group homes enjoy and a video, will be widely distributed to mayors and other local officials, legislators, care providers and others. Campaign materials can be obtained by contacting the Office at (609) 984-1188 or info@childadvocate.state.nj.us.

Improving Community Services for Children with Mental Health Needs

At the start of 2008 the Department of Children and Families and its Division of Child Behavioral Health Services (DCBHS) accepted public comment on proposed new rules for In-Community Mental Health Rehabilitative Services for Children, Youth and Young Adults (N.J.A.C. 10:200). These rules outlined provisions for Intensive In-Community Counseling (IIC) and Behavioral Assistance (BA) services.

These services are available to children and youth with moderate to high-level needs receiving services from DCBHS. IIC and BA are services focused on engaging the family into community based services.

The Office of the Child Advocate provided written comments and oral testimony on the rules. The Child Advocate supported the inclusion of quality assurance, qualitative measures, outcomes driven services and practices within the rules. The Office also supported the provisions for both greater oversight of behavioral assistance services by credentialed professionals and the licensure requirement for intensive in-community counseling providers. Improv-

ing standards for providers benefits children and families.

However, information provided within the proposed rules did not indicate whether DCBHS conducted a thorough needs assessment or gauged the impact of these

The Office recommended that in order to fully ensure that children ...are protected from substantiated perpetrators of child abuse and neglect, DCBHS should include a requirement for Child Abuse Record Information (CARI) checks in conjunction with the requirement for proof of criminal background checks.

rules on service availability throughout all geographic regions of the state. The OCA requested that if a significant loss in workforce, and therefore service availability, would result from the adoption of these rules, that Division develop a process whereby temporary waivers of the licensure or credentials requirements could be granted to clinicians who are working towards meeting these requirements or who are under the supervision of a licensed clinician.

The OCA also advocated for clear language in the proposed rules to include all protected classes that are outlined in federal and state laws that prohibit discrimination by health and human service providers that receive federal funds such as Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973 and Title II of the Americans with Disabilities Act of 1990. While some of the protected classes are listed in the regulations, this list should include the term 'disability.'

In addition, the OCA requested more guidance be included in the proposed rules surrounding case coordination between agencies where appropriate consent is received.

The Office recommended that in order to fully ensure that children and youth receiving intensive community services are protected from substantiated perpetrators

of child abuse and neglect, DCBHS should include a requirement for Child Abuse Record Information (CARI) checks in conjunction with the requirement for proof of criminal background checks.

Protecting Youth in Out-of-State Placements

The Child Advocate also commented on proposed rules issued by the Department of Human Services (DHS) in response to the passage of "Billy's Law," (NJAC 10:195). Billy's Law was signed by the Governor in January 2008. This law will provide greater oversight of out-of-state placement of youth involved with the Departments of Human Services and Children and Families.

While the Child Advocate generally agreed with the provisions outlined in the proposed rules, there were concerns related to interdepartmental communication, possible contradictions between DCF and DHS licensing standards and information sharing with families and community members regarding out-of-state facilities.

Placements for out-of-state residential programming can be funded by various entities, including DHS or DCF and/or the local school district. The Child Advocate requested DHS outline the process by which they will coordinate with other Departments of state and local school districts when youth are involved in multiple systems, especially in those cases in which more than one party assumes the responsibility for placement. The Child Advocate further requested that more clarity regarding communication and interdepartmental cooperation be addressed within the proposed rules including provisions for how DHS and DCF will work together to share information regarding inspections, violations, unusual incidents and other quality assurance measures.

The clear intent of Billy's Law is that no child shall be placed out-of-state in a facility that has not been inspected by the State of New Jersey and found to meet mini-

mum standards. It was unclear which set of regulations would be used when there is a contradiction between DHS and DCF standards. Therefore, OCA requested clarification regarding how the Department of Human Services will determine which set of regulations will be used when inspecting out-of-state placements. For example, a group home providing services to developmentally disabled youth who are also involved with the Division of Youth and Family Services (DYFS) may be licensed under two different administrative codes. Therefore, the proposed rules must clarify how DHS will determine which set of standards will be used.

In 2008, New Jersey was named the nation's first Juvenile Detention Alternative Initiative (JDAI) state model site, making the state a recognized national leader in reducing reliance on juvenile detention.

Another request was to include a complete list of all investigation findings within the proposed rules that would warrant termination of or refusal to enter into a contract. This would not only make the investigation process and penalties clear to providers, it would provide the

community and parents of children placed out-of-state detailed information regarding what violations would trigger termination of a contract.

Under Billy's Law, both DHS and DCF are required to maintain a list of all out-of-State programs in which New Jersey children receiving services from the Department are placed. The OCA suggested that a list of approved out-of-state placements be created jointly by DHS and DCF and posted in one location on the state of New Jersey website as this would be more family friendly and would ultimately be more efficient by avoiding duplication. Although Billy's Law does not direct DCF and DHS to include information from recent inspections, the OCA recommended that the list of out-of-state providers should be expanded to include the date of the last inspection and any major licensing violations. This would provide families with a way to compare programs and remain informed about when facilities were most recently inspected.

Helping Juveniles Involved with the Legal System

Child Advocate Urges Counties to Reinvest in Youth

With the number of New Jersey juveniles held in detention centers significantly reduced, counties should reinvest detention center dollars in prevention and treatment efforts to further reduce juvenile crime and increase public safety, the Child Advocate said in a report released in March 2009.



In 2008, New Jersey was named the nation's first Juvenile Detention Alternative Initiative (JDAI) state model site, making the state a recognized national leader in reducing reliance on juvenile detention.

Five years after beginning participation in this national project, five counties have posted a 44.3 percent drop in the number of youth in detention on any given day, the Child Advocate reported in an analysis of data provided by the Juvenile Justice Commission. Annual detention center admissions in these five counties declined 41.4 percent from 2003 to 2008, translating to 2,616 fewer youth in detention in 2008.

Acting Child Advocate Ronald K. Chen noted that this decrease presents an opportunity to reinvest dollars in juvenile crime prevention and treatment of at-risk youth. The wise reinvestment of these funds will pay substantial dividends by further reducing both juvenile crime and the number of youth who must be confined in expensive institutions.

JDAI is aimed at reforming juvenile justice systems to ensure that only those youth who pose the greatest risk to public safety are detained. In 2003, Atlantic, Camden, Essex, Monmouth and Hudson joined the effort. Since then, Mercer, Union, Bergen, Burlington and Ocean have become JDAI counties. Somerset recently joined the ini

tative and Passaic is expected to become a JDAI county in 2009.

A declining census and the need to save money have prompted one center to close and two others to announce plans to close. In December, Warren County, which has not yet participated in JDAI, closed its center and began sending youth to neighboring Morris County. Gloucester and Passaic have both announced plans to close. Essex was able to close a unit in its center as a result of the drop in the census.

Annual Admissions to Detention - Initial JDAI Sites

County	2003	2008	5 Year Change 2003-2008
Atlantic	468	335	-28.4%
Camden	1661	655	-60.6%
Essex	2460	1480	-39.8%
Monmouth	508	286	-43.7%
Hudson	1222	947	-22.5%
Total	6319	3703	-41.4%

The report highlights the fact that as juvenile justice reforms take hold, youth entering county detention facilities generally have more serious offenses and thus more complex needs that must be addressed. To accomplish this, counties must reinvest fiscal resources that build quality prevention and treatment programs, as well as detention alternatives. It also stated that any closures must be completed carefully, ensuring the youth have access to their attorneys, families and local services.

Child Advocate Hosts Juvenile Justice Roundtable

On June 20, 2008, the Office of the Child Advocate held a roundtable discussion for Juvenile Detention Facilities. The event was held at the State House Annex in Trenton and was attended by administrators and representatives of 15 of New Jersey's 17 juvenile detention facilities and members of

the Juvenile Justice Commission.

The goal of the roundtable was to recognize the strengths of the individual detention centers, as well as to foster collaboration between the centers and to create a forum for the centers to communicate their concerns to the Child Advocate's Office.

By statute, the Child Advocate is empowered to inspect and review the operations, policies and procedures of juvenile detention centers in New Jersey. Throughout 2009, members of the Child Advocate's staff visited all 17 detention centers and met with detention center administrators, officers and social workers, as well as some detained youth. The visits resulted in the identification of topics of importance to the centers as they strive to create the best possible environment for children caught at a critical juncture of their lives. Some of these topics became the basis for discussion at the roundtable.

Additionally, the OCA continues to monitor New Jersey's county-based juvenile detention centers. Child Advocate staff reviews unusual incident reports and follows up in cases that raise safety concerns or other issues.

Strengthening Children's Legal Rights

Governor's Commission on Bullying in Schools

When children are bullied at school it can harm their development, lessen their chances of school success and make it more difficult for them to develop healthy friendships. Left unaddressed, these problems can have long-lasting and devastating effects on a child.

To address the problem of bullying in New Jersey, Governor Jon Corzine and the New Jersey Legislature created the Commission on Bullying in Schools in 2007. The Commission is charged with recommending ways to strengthen New Jersey's approach to the problem of bullying in schools.

The New Jersey Office of the Child Advo-

cate was charged with the responsibility of providing staff and support to this panel so that it can effectively meet the goals of the legislation. The Commission was created through an amendment to the existing New Jersey Bullying Laws; P.L. 2007 c. 303.

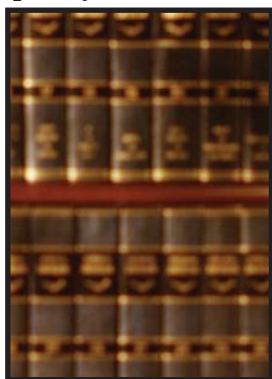
The Commission began meeting in October 2008. Members identified key issue areas, formed subcommittees and began researching relevant policies and regulations. The Commission also held three public hearings in early 2009 to obtain public input regarding concerns about bullying, as well as hear recommendations to improve New Jersey's response to the issue.

The northern, central and southern regional hearings were heavily attended by parents, students, school administrators, teachers, community service providers, advocates, school-based and private mental health professionals, attorneys and people representing a broad range of existing bullying-prevention programs. In addition to the public hearings, the Commission received a significant amount of written testimony.

All of the information provided to the Commission will be reviewed along with recommendations from legal and practice advisory groups. The advisory groups were convened to review existing laws and policies, as well as provide critical evaluation of the best ways to improve school climate and address incidents of bullying. The Commission anticipates meaningful and realistic recommendations from the culmination of their work and expects to issue a report with recommendations in July 2009.

Strengthening Children's Legal Rights

New Jersey has no clear policy or statute that governs the use of handcuffs and other restraints for juveniles appearing in court. As a result, youth are routinely shackled, often without regard to whether they are a risk to themselves or others.



This may unnecessarily create psychological and emotional trauma that can damage a youth's future prospects. Working closely with the Public Defender's Office and the Children's Justice Clinic at Rutgers University, the Child Advocate conducted extensive research on this issue in 2008. The Office, along with its partners on this project, expects to make recommendations in 2009 that end the indiscriminate shackling of juveniles during court proceedings.

The Child Advocate's Frontline

Helpline Responds to Calls of Concern for New Jersey Children

The Child Advocate's Helpline responds to hundreds of calls each year from people who are concerned about the health, safety, education or welfare of a child they know. Many of the calls involve problems with various state agencies charged with the responsibility of safeguarding, educating and tending to the healthcare needs of our most vulnerable citizens.

Through Helpline, trained Child Advocate staff educates caregivers about state systems, available services and their rights to receive those services. In many instances, Child Advocate staff intervenes to attempt to resolve problems and ensure a positive outcome for the children involved.

Who Calls Helpline?

In 2008, Helpline responded to 854 requests for assistance. Helpline receives calls from people all over the State of New Jersey. Birth parents whose families are involved with the Division of Youth and Family Services comprise the majority of referents.

Child Advocate Helpline

2008

Total new contacts	854
By Phone	786
By Mail	24
By E-mail	36
Fax/Other	8

Helpline also receives requests from community professionals, other parents, foster and adoptive parents and children.

What Type of Cases Does Helpline Handle?

- Helpline primarily responds to concerns about state agencies that provide children's services. Typically, this involves the Departments of:
- Children and Families, including the Division of Youth and Family Services and the Division of Child Behavioral Health Services,
- Human Services, including the Division of Developmental Disabilities,
- Health and Senior Services,
- Education, and
- The Juvenile Justice Commission, although concerns can involve other agencies.

In general, we are unable to help with private custody or visitation matters that do not involve a child involved with the Division of Youth and Family Services, requests for private legal representation and out-of-state concerns that do not have a New Jersey connection. In these cases, we may be able to suggest other resources or agencies that can help.

How Does Helpline Respond?

Helpline often educates referents about the best way to navigate a particular system, advising them on the appropriate people to contact, specific questions to ask and other advice that can help them become more effective advocates for the child in question.

In some instances, we will intervene directly and help a child or family access the assistance they require. Helpline identifies staff at the state level who have the ability to address a particular concern and works with them to resolve the problem.

For example, a foster mother desperately needed to find a pediatric specialist for one of her foster children. She was unable to access a specialty provider in her county who accepted the

child's Medicaid HMO.

After getting permission to contact relevant agencies on the foster parent's behalf, Helpline staff connected this foster mother with agency representatives who assisted her in resolving the situation and ensuring that her foster child received the quality medical care that he needed.

"When I called your office, what was nice is that you took me seriously and pointed me in the right direction," she said.

In some instances, calls to Helpline result in the Child Advocate undertaking broader policy initiatives. For example, when the Helpline began receiving multiple complaints about a South Jersey residential program for youth, the Child Advocate brought these concerns to the attention of the Department of Children and Families. Those initial concerns grew into a full investigation of the program. Thanks to the Child Advocate's intervention, conditions at the facility are greatly improved and children there are receiving improved care.

When I called your office, what was nice is that you took me seriously and pointed me in the right direction.

--Foster Parent

Child Advocate Helpline Issues

ISSUE AREA	2008
DYFS-Related	372
Other	274
Education	176
Mental Health	58
Health	36
Youth Facilities	12
Dev. Disabilities	15
Juvenile Justice	9
Total	952

Note: Since callers often raise more than one concern during a single call, the number of issues exceeds the number of people who contacted Helpline in 2008.

What Type of Issues Does Helpline Address?

Since the Helpline was established in October 2003, issues relating to the Division of Youth and Family Services have topped the list of concerns brought to the attention of the Child Advocate.

In 2008, DYFS-related concerns comprised approximately 39 percent of issues. Education-related concerns represent the second largest number of issue-specific contacts,

comprising approximately 18 percent of concerns raised in 2008.

Many of the people who contact Helpline are seeking assistance with private custody or visitation rights. These concerns generally fall outside the scope of our mandate and our ability to address. These are categorized as “other” concerns. Common concerns in this category include the need for legal representation, complaints about the Judiciary, law guardian or attorneys and out-of-state concerns with no New Jersey connection.

Helping Children, One Family at a Time

These are just three of the many Helpline cases that result in positive outcomes for children and families throughout the State.

Safety and Stability for a Young Teen

Michelle's young life was marked by instability and past abuses. The 15-year-old's family had been involved with New Jersey's child welfare system, on and off, for many years. It was during one of these involvements that Michelle came across the number for another place she could call – the Child Advocate's Helpline.

She kept the number -- just in case.

And it came in handy. Her mother had decided to move out of state. At first, Michelle's mother agreed to allow her to stay with her grandmother, who had long been her primary source of stability. But then Michelle's mother changed her mind. This was especially difficult for Michelle. Not only would she have to leave her school, where she was excelling, but she would also lose her important safety nets and her close relationship with her grandmother. Michelle found the Helpline number. She picked up the phone.

Helpline staff patiently guided Michelle and her grandmother through the various areas of concern and ways to address them. Michelle's grandmother was provided with information on how to obtain temporary custody of Michelle, as well as various other legal resources that proved to be very helpful to the family.

After Michelle voiced safety concerns, Helpline staff also spoke with Michelle

Everything worked out. You guys were really helpful. You told me exactly what I needed to do and it made things so much easier.

--Michelle, 15

about ensuring that the appropriate agencies, both in state and out of state, were contacted and provided with the relevant information. Child Advocate staff kept in contact with both Michelle and her grandmother to ensure that the case was progressing and that the relevant agencies were communicating with each other. Helpline staff also provided Michelle and her grandmother with information and guidance on accessing health insurance for Michelle and obtaining other needed services.



Through her own self-advocacy and with Helpline assistance, Michelle happily remained with her grandmother. She is now an honor student and looking forward to a bright future.

“Everything worked out,” Michelle said. “You guys were really helpful. You told me exactly what I needed to do and it made things so much easier.”

Finding the Right Placement to Meet Treatment Needs

Jake long suffered from acute mental and behavioral health issues and has been in a variety of residential care programs for most of his young life, in attempts to provide him with the structure and services he so desperately needs.

Getting Jake, 17, into the right placement, tailored to his specific needs, has been no easy task for those involved with his life. While in a recent residential placement in New Jersey, Jake became violent toward himself and others, and bounced between hospital crisis units and the residential treatment center many times in a very short period of time.

Many of the professionals involved with his treatment were worried that the current residential treatment center was unable to meet his severe needs and may not be the safest setting for him. However, a lack of consistent communication and clear responsibilities among the involved agencies and professionals made it virtually impossible for those tasked with locating the safest and most appropriate placement for Jake to do their jobs.

It was at that point that the Helpline received a confidential call from a concerned and dedicated professional at the residential treatment center, as this person did not know where to turn. They were running out of time to locate a therapeutically appropriate and safer placement. Trained Helpline staff worked to help navigate and clarify the roles and responsibilities of the various systems involved with this youth, while also researching available options and stepping in to help troubleshoot when new issues arose.

Child Advocate staff assisted in bringing together the necessary agencies, professionals and other relevant parties so that an appropriate and expedient placement plan could be determined for Jake. Due to this collaboration, Jake now resides in a safe treatment program more tailored to his special needs and is reported to be doing very well.



Combating Childhood Lead Poisoning

The Lee family immigrated to New Jersey with the hope of making a better life for their children. That proved to be more difficult than they imagined. Both parents had difficulty with the English language, and their two children have developmental disabilities. To make matters worse, Mike, 7, their youngest child, had an elevated blood lead level in 2007 and was hospitalized



due to this lead poisoning. The family's home was inspected and lead was identified in both interior and exterior sources. The home was supposedly remediated at that time.

The Child Advocate's Helpline was contacted sometime after that remediation by a community medical professional who was working with the family and who had become increasingly concerned over the situation. Mike was again hospitalized for lead poisoning, and although the home was thought to have been remediated, it appeared that this had not been done correctly.

The family did not speak English and so had trouble navigating the systems and advocating for themselves. It also appeared that the various relevant agencies had not been properly communicating with each other.

The community medical professional was unsure how to help this family and so she turned to the Helpline.

Helpline staff stepped in and began to identify what went wrong, what resources were available for the family and the best way to ensure that all of the different concerns were addressed. Helpline staff contacted appropriate parties at various local and state agencies to make them aware of the situation and investigated ways that the agencies could help, especially since Mike

was again hospitalized due to his re-exposure to the lead in his home.

Helpline staff also contacted Medicaid and the family's HMO to ensure that the family had a case manager who could continue to work with the family on the lead issues, as well as someone who was aware of the language barrier and communication needs.

Although the family had to leave their home for some time, in the end the various agencies all began to work together. The house was successfully remediated and the family was able to move back home. With Helpline's assistance, this family has continued to receive the services and support that they so desperately needed, but did not know how to ask for.

OCA's HELPLINE
1-877-543-7864



If you have an emergency, please contact the police immediately or call 9-1-1.

Allegations of child abuse or neglect should be called in to 877-NJ-ABUSE

The Office of the Child Advocate is not a first-response office.

**Child Advocate
Helpline
1-877-543-7864**

**For out of state callers:
1-609-984-1187**

**E-mail:
info@childadvocate.
state.nj.us**

The Helpline provides a link between the Office of the Child Advocate and the public. The Helpline serves as a reliable resource for the public to report the experiences of children within various state systems, such as the juvenile justice system, the Division of Youth and Family Services (DYFS), Division of Child Behavioral Health Services (DCBHS), schools, group homes and other state systems that serve children.

Department Overview

Protecting the Public Interest

One of the core functions of the department is to protect the public interest. The Division of Public Interest Advocacy examines public policy and uses research, advocacy and legal intervention to advance reforms that will benefit New Jersey citizens. Key areas include reforming the use of eminent domain for private redevelopment, reducing childhood lead poisoning, protecting tenants rights during foreclosure, and securing the right to vote for all New Jersey citizens.

Catherine Weiss, Division Director

Protecting Individuals With Mental Illness

The Division of Mental Health Advocacy protects and advocates for people who have mental illness. The attorneys and staff in this division ensure that people within the mental health system receive the care and assistance they need to live the fullest lives possible. The division includes the Mental Health and Guardianship unit, which represents individuals who are facing commitment to psychiatric facilities.

Patrick Reilly, Division Director

Ann Portas, Deputy Director

Advocating for the Elderly

In 2008, the Department consolidated its Division of Elder Advocacy and its Division of Developmental Disability Advocacy into one smaller division operating under the supervision of one Director and with staff assigned to project work in both areas.

The Division of Elder Advocacy works to secure, preserve and promote the health, safety and welfare of New Jersey's elderly population. Through legislative and policy work, education and outreach, this division advances reforms to improve the quality of life for New Jersey's older residents.

This division is also charged with protecting the rights of residents of long-term health-care facilities who are age 60 or older. The Office of the Ombudsman for the Institutionalized Elderly is staffed with investigators and nurses who investigate reports of abuse or neglect of people living in nursing homes and other long-term care facilities and take action to protect them from harm.

Improving Life for People with Developmental Disabilities

Protecting the safety and legal rights of New Jersey citizens with developmental disabilities is the central charge of the Division of Developmental Disability Advocacy. The division works to promote policies and practices that ensure people with developmental disabilities have safe and effective supports and services and opportunities to participate fully in all aspects of their communities.

Gwen Orlowski, Division Director

Debra Branch, Elder Ombudsman

Helping Citizens Navigate Government Agencies

The department keeps an open line of communication with New Jersey citizens through its Division of Citizen Relations. The division investigators respond to complaints about state agencies and local governments. They educate citizens on the most effective government service for a particular problem. If a state agency fails to respond, Citizen Relations staff advocate on behalf of citizens to resolve disputes.

The Office of Dispute Settlement and the Corrections Ombudsman are also located in this division. The Office of Dispute Settlement provides neutral mediation services to resolve a wide variety of disputes, including those brought by individuals seeking access

to government records under the Open Public Records Act and claims under the New Home Warranty Act. This office also serves as court-appointed mediator and provides dispute resolution training.

The Office of the Corrections Ombudsman addresses issues, problems or complaints of those confined to the New Jersey state correctional system.

Eric Max, Director, Division of Citizen Relations and Office of Dispute Settlement

Donna Jago, Director, Office of Citizen Relations

Dan DiBenedetti, Corrections Ombudsman

Fighting For Consumers

The Division of Rate Counsel ensures that utility consumers receive safe, adequate and proper service at affordable rates. The division examines each request by a public utility for a change in rates or service terms, with the goal of protecting ratepayers from

unfair or unjustified increases in their electric, gas, cable TV, telecommunications or water bills. This division has the legal right to challenge proposed increases and represents the ratepayer on any changes to utility service. The division also represents consumers in a limited number of health and auto insurance matters.

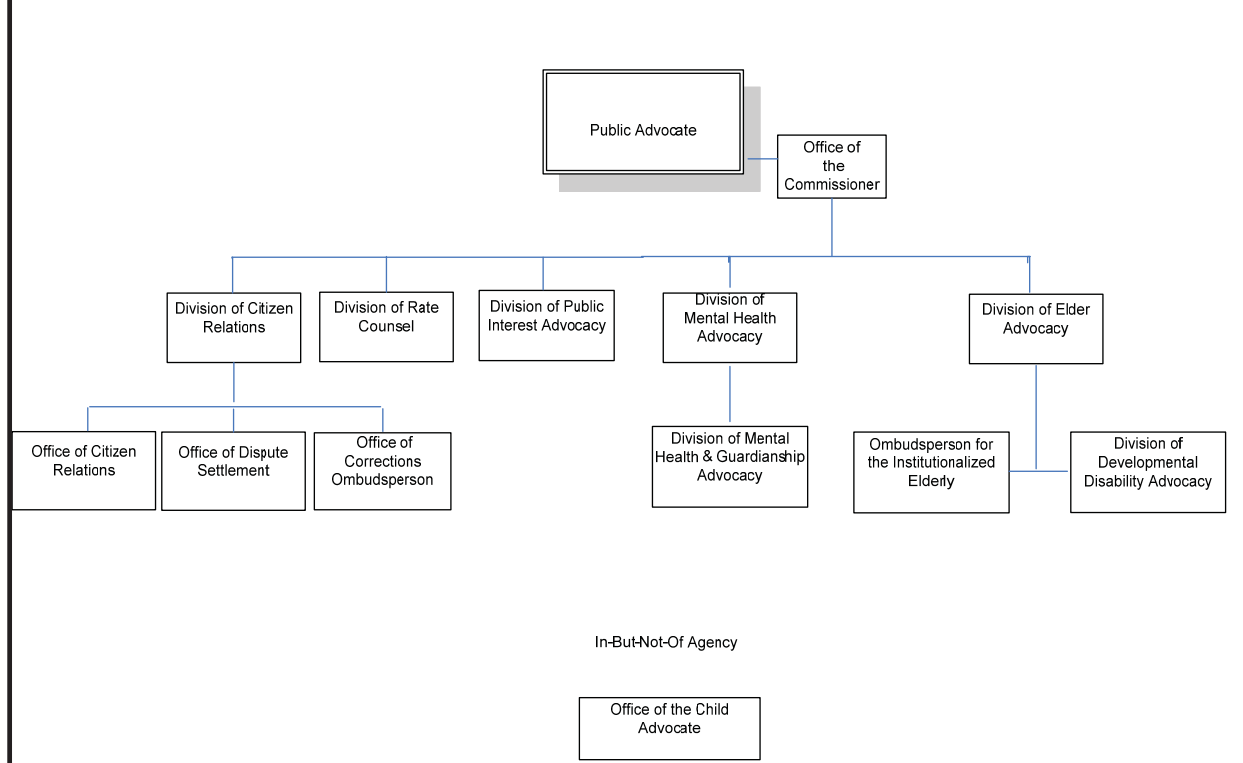
Stefanie Brand, Division Director

Safeguarding Children

The Office of the Child Advocate, an independent agency within the Department of the Public Advocate, works to protect the interests of children who are at risk of abuse or neglect. The Child Advocate seeks to improve the safety and well-being of New Jersey's children through investigation, policy and practice reform, public reporting, hearings, litigation and other strategies. In 2008, at the Governor's direction, the Public Advocate assumed the responsibilities of the Child Advocate on an acting basis.

Ronald K. Chen, Acting Child Advocate

**DEPARTMENT OF THE PUBLIC ADVOCATE
ORGANIZATIONAL CHART**



Contact Us

In addition to advocating for broad public policy change, the Department of Public Advocate helps individuals with specific concerns related to the care of the institutionalized elderly, interaction with local and state governmental agencies and inmates confined to state prisons.

Email: PublicAdvocate@advocate.state.nj.us

Department of the Public Advocate

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Trenton, NJ 08625-0851

Phone: (609) 826-5090

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Division of Citizen Relations

Phone: (609) 826-5070

Fax: (609) 984-4770

Office of the Ombudsman for the Institutionalized Elderly

Phone: (877) 582-6995

Fax: (609) 943-3479

Office of Dispute Settlement

Phone: (609) 292-1773

Fax: (609) 292-6292

Office of the Corrections Ombudsman

Phone: (609) 292-8020 or (609) 633-2596

Fax: (609) 633-8644

Office of the Child Advocate

Phone: (609) 984-1188

Hotline: 1-877-543-7864

Fax: (609) 292-1433