
2022
Children's Legal Services
Annual Report
On Contract Attorneys

Department of Children and Families
Children's Legal Services

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Purpose

In 2020, the Florida Legislature passed Senate Bill 1326, which established new laws concerning contracts for the provision of legal services on behalf of the Department of Children and Families (Department). Section 409.996(20)(e), Florida Statutes (F.S.)(2022), requires the Department to conduct an annual program performance evaluation of its contracted attorneys that shall be based on the same child welfare practice model principles, and federal and state performance standards, that are imposed on Children's Legal Services attorneys employed by the Department. The program performance evaluation shall be conducted by a team of peer reviewers from the contracted attorneys' office that perform legal services and representatives from the Department. Below is the annual report required by section 409.996(20)(e), F.S. (2022), that examines performance quality, outcome-measure attainment, and cost efficiency of the services provided by the contracted attorneys.

Background

The Children's Legal Services unit within the Office of the State Attorney (SAO) in Circuit 6 began as a pilot project. The 1996-97 Appropriations Act established three pilot locations changing the organizational placement of Child Welfare Legal Services (CWLS, the predecessor to Children's Legal Services) personnel from the Department of Health and Rehabilitative Services to the OAG in the 17th Judicial Circuit and the SAO in the 8th and the 16th Judicial Circuits. See *OPPAGA Evaluation of Child Welfare Legal Services Pilot Projects*, Report No. 96-44, January 29, 1997. An initial evaluation of the pilot issued by the Office of Program Policy Analysis and Government Accountability (OPPAGA) recommended that the pilot be continued. See *id.*

When OPPAGA last evaluated CWLS in 2004, the Department had moved from the pilot to a contractual relationship with the SAO for legal services in Circuit 6, and with the OAG in Circuits 13 and 17, as well as Manatee County in Circuit 12. See *OPPAGA Special Report*, Report No. 04-05, January 2004. The 2004 report explained that, while the OAG provided legal services for the Department in some areas of the state, the then-Attorney General believed that it was not a core function of his office and was therefore not interested in expanding the function beyond the three counties his office served. Similarly, while the SAO in Circuit 6 provided these services in Pinellas and Pasco counties, other state attorneys had not shown an interest in providing the services. In 2012, the OAG transferred the legal services for Manatee County back to the Department. In 2021, the OAG transferred the remainder of their contracted offices, Circuits 13 and 17, back to the Department.

Pursuant to the current contract, the SAO is responsible for all legal services to be performed on behalf of the State of Florida in all juvenile dependency and termination of parental rights proceedings governed by Chapter 39, F.S., the Florida Rules of Juvenile Procedure, section 409.1451, F.S., or otherwise properly heard in dependency court, as well as all related appellate proceedings in Circuit 6 (Pinellas and Pasco Counties). The current contract ends on June 30, 2023.

During Fiscal Year 2021-2022, the Department terminated its contract with the Community Based Care agency in Circuit 6. To ensure a smooth transition to the new Community Based Care agency, the Department provided on the ground worker support as well as financial support to assist with completing case management duties, making family contacts, and closing cases. The impact of the provision of these resources to the CBC on SAO's performance was not measured in this review.

Outcome-Measure Attainment

Children's Legal Services uses four key quantitative measures (performance goals) to drive performance outcomes and determine compliance with the requirements of Chapter 39, F.S, and the Department's policies and procedures. The process for measuring outcome attainment is not static. Rather, Children's Legal Services' performance measurement process is designed to evolve to meet the changing needs of Children's Legal Services. The Regional and Circuit Reviews provide valuable information on outcomes where Children's Legal Services excels, and on areas that need greater focus. Each performance measure is calculated through Florida Safe Families Network (FSFN) reporting.

Methodology

Performance Goal – Percent of Children in Out-of-Home Care over 15 Months & No TPR Activity

What is reviewed? The total number of children in out of home care, over 15 months, with a goal of reunification and no recent termination of parental rights (TPR) activity is divided by the total number of children in out of home care to arrive at a percent. A percent is used to ensure all areas are equally evaluated despite differences in geographic characteristics and workload volume.

Goal: 6.5% or less.

Why is this reviewed? Time is of the essence for a child in out of home care. Permanency must be achieved as expeditiously and safely as possible. The law requires the court to hold a permanency hearing every 12 months where the primary consideration is the child's best interest. At the 12-month hearing, the court may change the permanency goal and direct the Department to file a Termination of Parental Rights Petition within 60 days. Alternatively, the Department may file a Termination of Parental Rights Petition in the absence of a goal change or order from the court if the action is supported by the law and the Department determines that termination of parental rights is in the child's best interest. This measure provides information on how many children have their reunification goal extended beyond the 12-month mark for whom the Department has not filed a Termination of Parental Rights Petition. Children's Legal Services' efforts to reduce this population of children promotes permanency for children in out of home care.

Performance Goal – Disposition Achieved in 90 Days or Less

What is reviewed? For each child reaching disposition in the period, the total number of days between shelter and disposition is calculated. The total number of days for each child reaching disposition is collected to form a data set for the circuit or region. From this data set, the median number is reported to reflect the circuit's or region's overall performance.

Goal: 90 median days or less.

Why is this reviewed? The court must hear and evaluate the facts behind each case to make a final decision for each child. Delays in the court process can affect service delivery times and ultimately delay permanency for a child. The law requires that a child removed from their home reach disposition within 90 days. A court may grant limited continuances, but this additional time must not exceed 60 days (for a combined total of 150 days) except in extraordinary circumstances.

Performance Goal – Lowering the Median time from TPR Filing to Final TPR Order

What is reviewed? All children reaching a final order of termination of parental rights during the period are evaluated to determine the median number of days from the filing of a Petition for Termination of Parental Rights to the entry of a Final Order Terminating Parental Rights.

Goal: Median of 180 days or less.

Why is this reviewed? The federal goal for children being adopted is to achieve a final adoption within 24 months of removal. The period of time that a filed Termination of Parental Rights Petition is pending in the court process to free a child for adoption directly affects the State's ability to meet this federal goal. There are many factors that can delay court proceedings, including the need to conduct diligent searches, publish on missing parents, prepare complex cases, and find available court time for trials that can last several days. Children's Legal Services monitors these time periods to identify areas in the state where the legal process is impacting the time it takes to achieve permanency.

Performance Goal – Draft Orders Submitted within 15 Calendar Days (20 days for TPR)

What is reviewed? Where Children's Legal Services drafts court orders, there is an expectation that the draft orders are submitted to the court within 15 calendar days of the court event or 20 days for TPR orders. The number is the timely percent of all orders from events occurring in the period where a "draft order due" notation is made in the legal module.

Goal: 80% or greater.

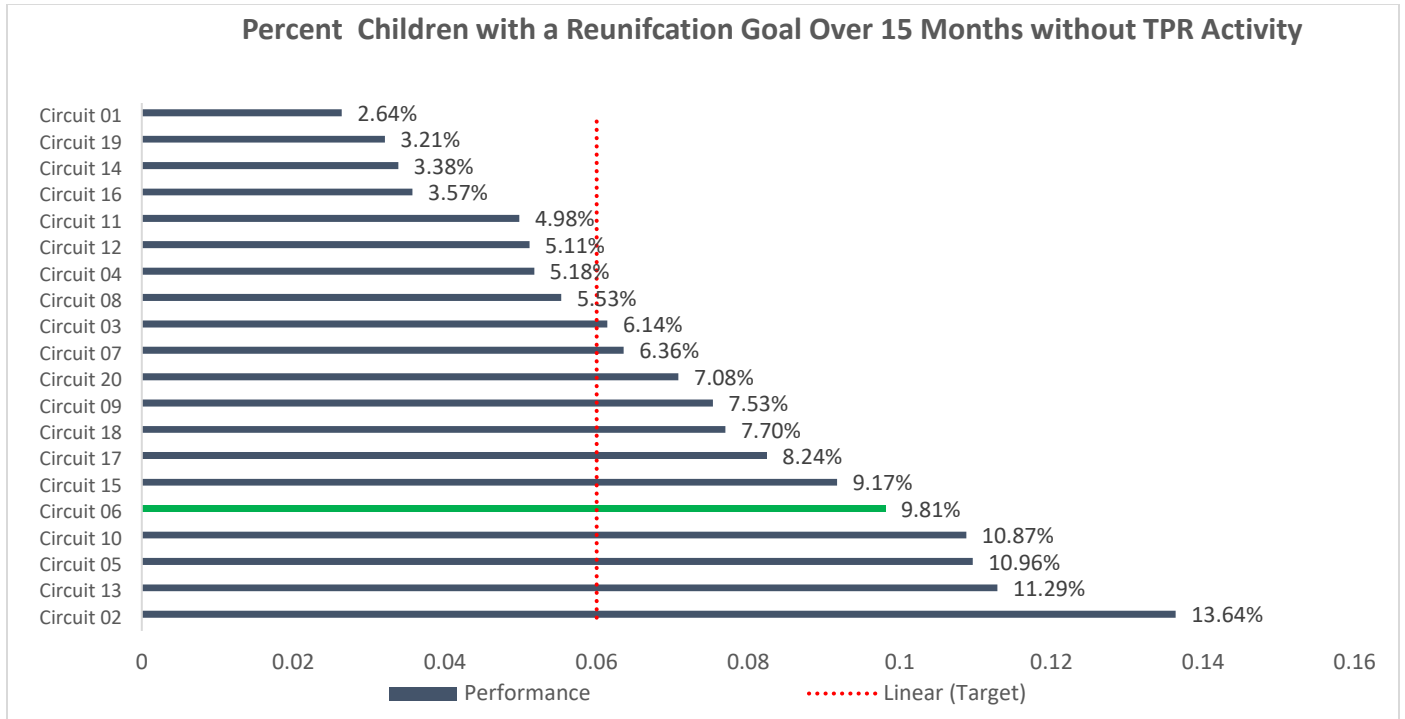
Why is this reviewed? Courts rely heavily on litigants to prepare proposed orders for submission to the court. While some judges and magistrates memorialize their own rulings, most require Children's Legal Services to provide an order that accurately reflects the court's ruling. Delays in preparing orders can extend the time for appeal, delay the court process, delay communication of the court's ruling, and impact Title IV-E claiming.

Fiscal Year 2021-2022 Outcomes

Performance Goal: Percent of Children in Out-of-Home Care over 15 Months without TPR Activity

Lower is better. The goal is 6 percent or less.

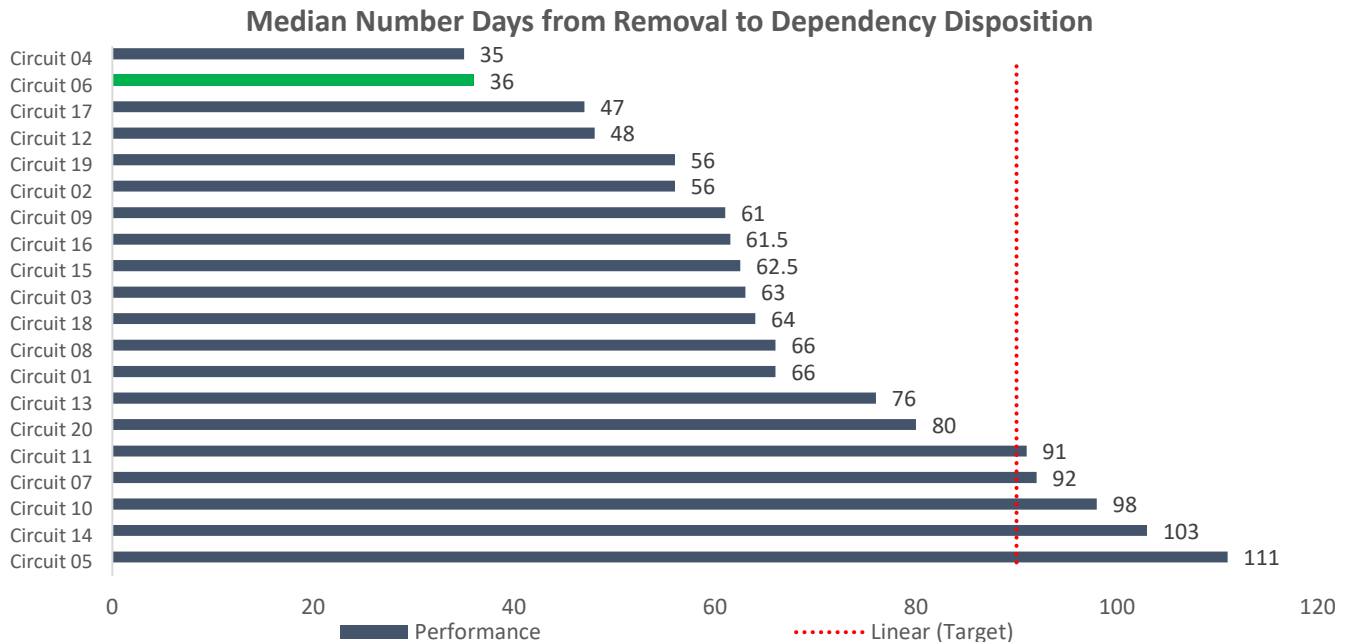
As of June 30, 2022, Circuit 6 had the largest population of children in out-of-home care (OOHC) in the state with 2,692 children.



Performance Goal: Disposition Achieved in 90 Days or Less

Lower is better. The goal is 90 median days or less.

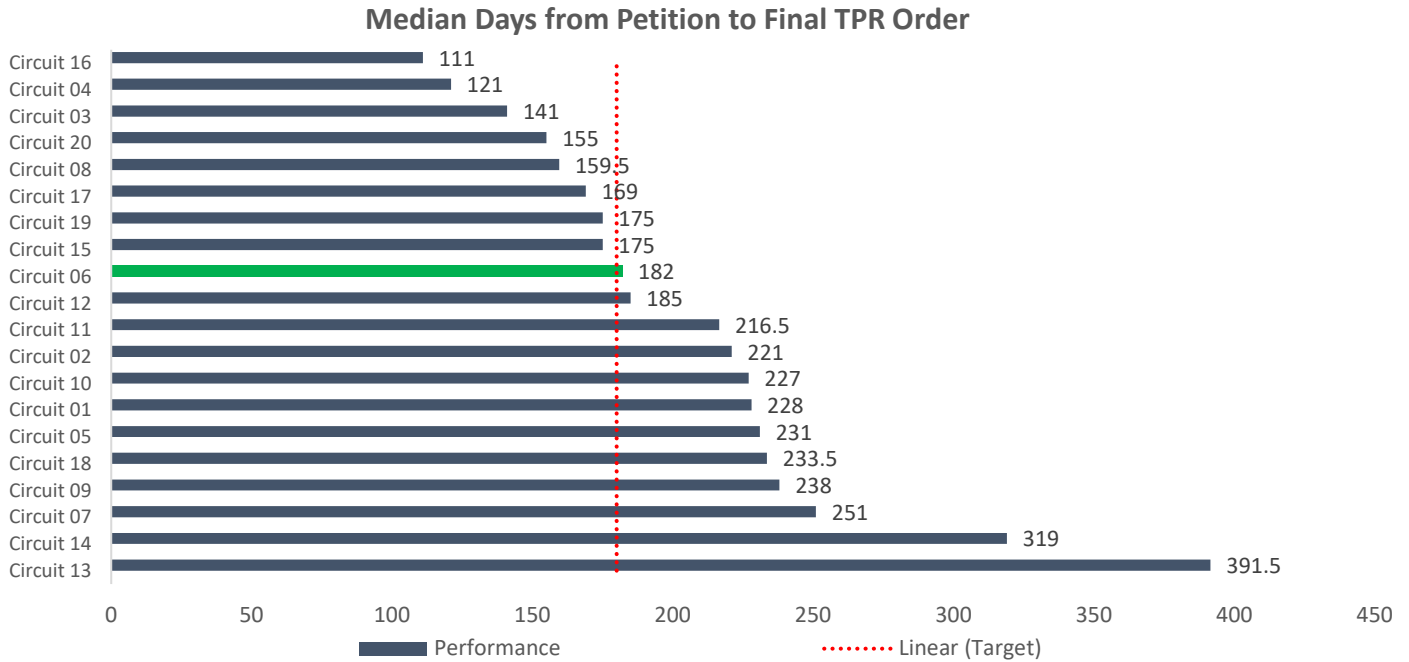
In Fiscal Year 2021-2022, CLS achieved disposition for 5,489 children and SAO for 676.



Performance Goal: Lowering the Median Time from TPR Filing to Final TPR Order

Lower is better. The goal is 180 median days or less.

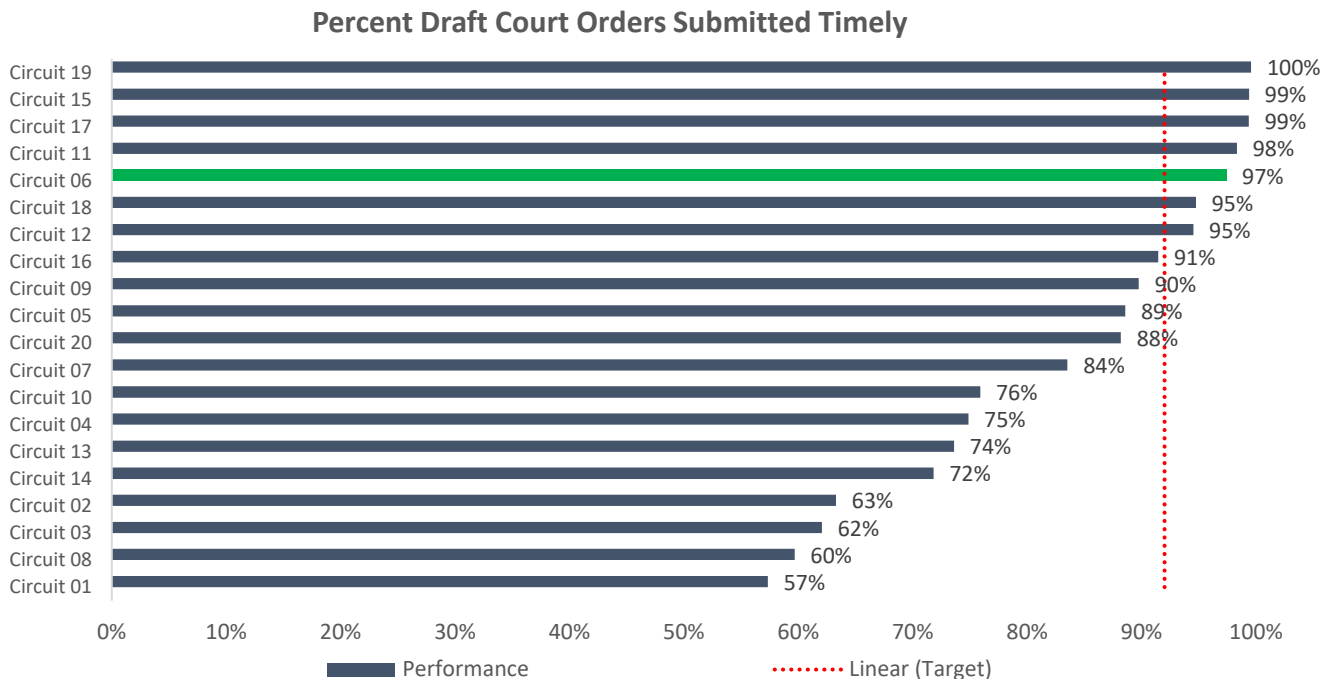
In Fiscal Year 2021-2022, CLS prosecuted termination of parental rights for 3,127 children and SAO for 319.



Performance Goal: Draft Orders Submitted within 15 Calendar Days (20 days for TPR)

Higher is better. The goal is 80 percent or greater.

The below calculations are based upon a review of 36,564 orders for CLS and 3,745 orders for SAO.



Performance Quality

Peer Review Evaluation Methodology

Case Selection

Children's Legal Services (CLS) and its contracted partner at the SAO completed the annual program performance evaluation by reviewing a total of 84 cases in a peer review format. The apportionment of the 84 selected cases included 42 cases for CLS (equally appropriated in relation to the total number of CLS cases statewide) and 42 cases for the SAO. Cases were randomly selected and were required to meet the following criteria:

1. The case has been/was open a minimum of 13 months.
2. The case has no more than 3 children.
3. All children were adjudicated dependent.
4. The case did not involve an expedited termination of parental rights.
5. The case had not been transferred between jurisdictions.
6. The case could not have been closed more than 2 months before the case selection date.

These six (6) criteria were required to ensure that each selected case was a fair representation of the specific areas being evaluated in the peer review. A case needed to be open 13 months to ensure a permanency hearing had occurred and a court order had been entered. Florida law requires a permanency hearing occur 12 months from removal and at least every 12 months thereafter. Specific findings should be made at a permanency hearing, to include the appropriate permanency goal for a child(ren). Likewise, the requirement of the child being adjudicated dependent was to ensure the case was open long enough for certain statutory requirements to be met. The other requirements were chosen to ensure required review materials were available, not onerous, and were specific to one judicial area.

Areas of Review

Five Areas of Review were chosen to ensure compliance with the laws of Florida and Title IV-E of the Social Security and Administration Act. Of importance was measuring performance and efforts toward achieving permanency as safely and expeditiously as possible and including caregivers and children in the dependency process. Each area covered a specific topic and included pre-determined sub-area requirements. Although, CLS and its contracted partner do not control every item within a topic, the chosen sub-areas included some required action by CLS and its contracted partner. An asterisk is placed next to items that are heavily reliant on community partners. The Areas and sub-areas are as follows:

Area 1: A Strong Foundation

- a. Shelter order contains Title IV-E language, if appropriate.
- b. Shelter hearing held within 24 hours of the child's removal from the home.
- c. Paternity established by court order that (1) finds an individual to be a legal father, (2) determines that an identified prospective father could not be located after diligent search or was located, provided notice, but did not file an affidavit of parenthood, or (3) finds that a prospective father has not been identified and the child has no legal father.
- d. Indian Child Welfare Act requirements addressed.

- e. Visitation ordered for both parents and siblings (if siblings not placed together), or best interest finding made on why visitation should not occur.
- f. Attorney ad Litem appointed as required in Chapter 39, F.S.

Area 2: The Existence of a Plan of Action to Achieve Permanency

- a. Filed case plan includes each parent and each child to the case and whether tasks or services are required.*
- b. At a judicial review within 6 months of the child's removal, the court order finds that reunification is likely within 12 months or, if the court finds reunification is unlikely within 12 months and a concurrent plan is not already being used, the attorney motioned for the addition of a concurrent goal as outlined in section 39.701(2)(d)5, F.S., (2022).
- c. If the reunification goal was extended at the 12-month permanency hearing, the court order includes a legally sufficient rationale.
- d. Incarcerated parent is incorporated throughout the legal case. This includes findings against the incarcerated parent in the adjudication order, filed case plan includes tasks for incarcerated parent and available services at the jail/prison to complete the tasks, and judicial review order reflects level of compliance with court-ordered tasks.*
- e. Conditions for Return language used at judicial reviews as evidenced by court order.

Area 3: Timely Completion of CLS Legal Actions

- a. Dependency petition filed within 21 days of shelter pursuant to computation of time under Rules of Judicial Administration.
- b. Termination of Parental Rights petition filed within 60 days of goal change to adoption pursuant to computation of time under Rules of Judicial Administration.

Area 4: Timely Completion of Court Legal Actions

- a. Dependency adjudicatory hearing held in 30 days after arraignment if parent does not enter consent. If continued, court file reflects appropriate legal basis for continuance (i.e., diligent search, paternity issues, and service of process where the delay is not attributable to CLS).
- b. Initial Judicial Review held within 90 days of disposition or 6 months from removal from the home.
- c. Permanency Review held within 12 months of the child's removal from the home and every 12 months thereafter.

Area 5: Notice and Right to Be Heard

- a. Caregivers were given adequate notice of hearings and an opportunity to provide meaningful input as evidenced by court orders.
- b. Court order reflects caregiver was given an opportunity to be heard or decided not to address the court. Any caregiver input form was filed with the court.
- c. Court order reflects child was present at hearings or the court made a best interest finding excusing their presence.

Reviewers

There were 32 attorney peer reviewers from within the Department and the contracted partner office. All reviewers were experienced attorneys with significant dependency law and practice knowledge to include Chapter 39, F.S., Juvenile Rule of Procedure, Administrative Law, and Department of Children and Families operating procedures (CFOP). All samples were reviewed by a pair of attorneys. The pairing included an attorney from CLS and an attorney from the SAO. No attorney reviewed a case in which they served as the attorney of record and no attorney was subject to a corrective action plan.

Review of Cases and Scoring

Cases were initially reviewed by a two-person team comprised of a CLS representative and a representative from the SAO. To facilitate review of 84 cases in this format, the number of reviewers were as follows: CLS - 25 reviewers and SAO - 7 reviewers.

Each reviewer used a Peer Review Tool to evaluate the randomly selected case. Each Area was rated either a "Strength" or "Improvement Needed." Each sub-area was rated "Yes," "No," or "N/A." For an area to receive a rating of "Strength," all sub-areas had to receive a rating of "Yes" and/or "N/A." **If a single sub-area was rated as "No," the entire Area would be ranked "Improvement Needed."** If a member of the two-person team rated an area as a "Strength," while the other member rated the area as "Improvement Needed," a second-level review, including the two-person team, the SAO Dependency Division Director, the applicable CLS Regional Director, the CLS Deputy Director, and the CLS Statewide Counsel for Quality Assurance occurred. If the second-level review did not resolve the disagreement, the CLS Statewide Director made the final decision after input from the contracted office and the original reviewers.

Fiscal Year 2021-2022 Peer Review Findings

Area 1: A Strong Foundation

Criteria:

Shelter order contains Title IV-E language, if appropriate.

- a. Shelter hearing held within 24 hours of the child's removal from the home.
- b. Paternity established by court order that (1) finds an individual to be a legal father, (2) determines that an identified prospective father could not be located after diligent search or was located, provided notice, but did not file an affidavit of parenthood, or (3) finds that a prospective father has not been identified and the child has no legal father.
- c. ICWA addressed.
- d. Visitation ordered for both parents and siblings (if siblings not placed together) or best interest finding made on why visitation should not occur.
- e. Attorney ad Litem appointed as required in Chapter 39, F.S.

Findings

- CLS's strength was most attributable to Title IV-E language (100%).
- An area in which CLS could improve is in addressing ICWA (95%).
- SAO's strength was most attributable to shelter hearing held within 24 hours and addressing ICWA (100%).
- Areas in which the SAO could improve are establishing paternity and ordering visitation for both parents and siblings (95%).

Area 2: The Existence of a Plan of Action to Achieve Permanency

Criteria

- a. Filed case plan includes each parent and each child to the case and whether tasks or services are required.
- b. At a judicial review within 6 months of the child's removal, the court order finds that reunification is likely within 12 months or, if the court finds reunification is unlikely within 12 months and a concurrent plan is not already being used, the attorney motioned for the addition of a concurrent goal as outlined in section 39.701(2)(d)5., F.S. (2022).
- c. If the reunification goal was extended at the 12-month permanency hearing, the court order includes a legally sufficient rationale.
- d. Incarcerated parent is incorporated throughout the legal case. This includes findings against the incarcerated parent in the adjudication order, filed case plan includes tasks for incarcerated parent and available services at the jail/prison to complete the tasks, and judicial review order reflects level of compliance with court-ordered tasks.
- e. Conditions for Return language used at judicial reviews as evidenced by court order.

Findings

- Both CLS and SAO's performance on this Area was impacted by the methodology that if a single sub-area was rated as "No," the entire Area was ranked "Improvement Needed."
- CLS's and the SAO's strengths are most attributable to the incarcerated parent being incorporated throughout the legal case. (100%).
- An area in which both CLS and the SAO could improve is the 6-month judicial review finding (86%).

Area 3: Timely Completion of CLS Legal Actions

Criteria

- a. Dependency petition filed within 21 days of shelter pursuant to computation of time under Rules of Judicial Administration.
- b. Termination of Parental Rights petition filed within 60 days of goal change to adoption pursuant to computation of time under Rules of Judicial Administration.

Findings

- CLS performed equally on the two items measured for this Area (86%).
- SAO's strength was most attributable to TPR petition filed within 60 days of goal change (100%).
- SAO also performed well on dependency petitions filed within 21 days (95%).

Area 4: Timely Completion of Court Legal Actions

Criteria

- a. Dependency adjudicatory hearing held in 30 days after arraignment if parent does not enter consent. If continued, court file reflects appropriate legal basis for continuance (i.e., diligent search, paternity issues, and service of process where the delay is not attributable to CLS).
- b. Initial Judicial Review held within 90 days of disposition or 6 months from removal from the home.
- c. Permanency Review held within 12 months of the child's removal from the home and every 12 months thereafter.

Findings

- CLS's strength was most attributable to Permanency Review held within 12 months of the child's removal from the home and every 12 months thereafter (100%).
- An area in which CLS could improve was holding an Initial Judicial Review in 90 days of disposition or 6 months of removal (93%).
- SAO's strength was most attributable to Initial Judicial Review held within 90 days of disposition or 6 months from removal from the home (100%).
- An area in which SAO could improve was holding a Permanency Review within 12 months of the child's removal from the home and every 12 months thereafter (95%).

Area 5: Notice and Right to Be Heard

Criteria

- a. Caregivers were given adequate notice of hearings and an opportunity to provide meaningful input as evidenced by court orders.
- b. Court order reflects caregiver was given an opportunity to be heard or decided not to address the court. Any caregiver input form was filed with the court.
- c. Court order reflects child was present at hearings or the court made a best interest finding excusing their presence.

Findings:

- CLS's and SAO's strengths were most attributable to court order reflecting child's presence at hearing or a best interest finding excusing presence (97%).
- Both CLS and SAO could improve on provided caregivers notice and opportunity to participate at hearings (CLS 95%, SAO 97%).

Cost Efficiency

To determine cost efficiency of the services provided by the SAO, the Department has employed two methodologies below. The first methodology compares the costs of the current contract (or the annual operating budget in the case of the Department’s internal CLS unit) against the volume of legal services a contractor/agency provides as represented by the number of open cases that the agency is prosecuting at a point in time. The second methodology compares the costs of the Fiscal Year 2021-2022 contract/budget against the number of cases closed to permanency in Fiscal Year 2021-2022, where permanency includes reunification, adoption, or permanent guardianship.

Case Load Methodology

For Fiscal Year 2022-2023, the Department’s internal Children’s Legal Services Unit has an annual operating budget of \$49,728,421, not including the funds designated for the contract with the SAO. The contract between the Department and the SAO for Fiscal Year 2022-2023 is valued at \$4,389,357.

The cost per case (shown in table below) is calculated by dividing the operating budget for FY 2022-2023 by the caseload size as of October 1, 2022, without taking into consideration any funding the SAO receives from sources outside the contract with the agency.

Agency	2022-2023 Budget	Caseload	Cost per Case
CLS	\$49,728,421	14,345	\$3,466.60
SAO 6	\$4,389,357	1,848	\$2,375.19

Case Closure Methodology

For Fiscal Year 2021-2022, the Department’s internal Children’s Legal Services Unit had an annual operating budget of \$49,190,018. The contract between the Department and the SAO for Fiscal Year 2021-2022 was valued at \$4,341,614.

The cost per case (shown in table below) is calculated by dividing the operating budget for Fiscal Year 2021-2022 by to the number of children on the contractor’s caseload who reached permanency through case closure in Fiscal Year 2021-2022 without taking into consideration any funding the SAO receives from sources outside the contract with the agency.:

Agency	2022-2023 Budget	Permanency	Cost per Case
CLS	\$49,728,421	10,964	\$4,486.50
SAO 6	\$4,389,357	1,272	\$3,413.22