

**Joint Legislative Committee on Performance  
Evaluation and Expenditure Review (PEER)**

Report to  
the Mississippi Legislature



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## **Issues Related to the Increase in the Number of Children in the Department of Human Services' Custody in Hancock County**

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The number of children in the Department of Human Services' custody in Hancock County as a result of allegations of abuse and/or neglect increased 148% over the last five years. PEER sought to determine the issues related to and possible causes of the recent increase in the number of child protection cases in that county.

Three external factors identified by community stakeholders and PEER's comprehensive literature review that may contribute to an increased rate of child maltreatment in Hancock County are the illicit consumption of drugs, a transient population, and the number of children living in single-parent households. However, no causal relationships were established by the data.

PEER found that high staff turnover and heavy workloads of Division of Family and Children's Services workers in Hancock County contribute indirectly to the number of children in custody in that county. Also, some of the Hancock County Youth Court's policies have had an effect on the number of children in custody.

The ability of Hancock County's Division of Family and Children's Services staff to carry out their functions consistently and professionally could have an impact on the court's willingness to trust the agency's guidance and recommendations in the child protection process. Likewise, certain atypical policies and procedures of the Hancock County Youth Court could also have an impact on the outcomes of the process. Together, the performance of both players can impact the decisions of judges to take or retain custody of children who go through the process when other alternatives might be available.

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July 14, 2015

Honorable Phil Bryant, Governor  
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On July 14, 2015, the PEER Committee authorized release of the report entitled **Issues Related to the Increase in the Number of Children in the Department of Human Services' Custody in Hancock County.**

A handwritten signature in black ink that reads "Becky Currie".

Representative Becky Currie, Chair

**This report does not recommend increased funding or additional staff.**



## *Table of Contents*

Letter of Transmittal .....	i
Executive Summary .....	vii
Introduction .....	1
Authority .....	1
Problem Statement.....	1
Scope and Purpose.....	2
Method .....	2
Background .....	4
What are the phases of the child protection process? .....	4
Who are the responsible participants in the child protection process? .....	5
Does Hancock County have more children entering DHS's custody than other areas of the state? .....	21
Does Hancock County have fewer children leaving DHS's custody than other areas of the state? .....	22
Does Hancock County have children who stay in DHS's custody longer than other areas of the state? .....	23
Does Hancock County have more incidents of child maltreatment than other areas of the state? .....	25
How does the rate of child maltreatment affect the number of children in DHS's custody? .....	27
Does Hancock County use terminations of parental rights more aggressively than other youth courts? .....	28
What are the forces that affect the number of children in DHS's custody? .....	30
What external forces could contribute to the number of children in DHS's custody in Hancock County? .....	33
What external risk factors are associated with child maltreatment?.....	33
What was the result of PEER's analysis of external risk factors for child maltreatment in Hancock County? .....	34
What internal forces could contribute to the number of children in DHS's custody in Hancock County? .....	35
What internal forces within the Hancock County office of the Division of Family and Children's Services contribute to the number of children in DHS's custody in that county? .....	35
What internal forces within the Hancock County Youth Court contribute to the number of children in DHS's custody in that county? .....	38

**Table of Contents (continued)**

How have the internal forces described in this report contributed to the number of children in DHS's custody in Hancock County?..... 50

    Internal Factors: Hancock County DFCS..... 50

    Internal Factors: Hancock County Youth Court..... 51

    What impact do these conditions have on the working relationship between the Hancock County DFCS staff and the Hancock County Youth Court? ..... 52

Recommendations ..... 54

Technical Appendix: Analysis of External Factors Associated with Child Maltreatment in Hancock County..... 57

Appendix A: Projected Number of Termination of Parental Rights Cases in Hancock County..... 72

Appendix B: Selected Demographic Data for Comparison Counties ..... 74

Appendix C: What is the *Olivia Y.* Modified Service Agreement? ..... 76

Appendix D: Performance Metrics for the Hancock County DFCS and Other County DFCS Offices, 2014 ..... 77

Agency Response ..... 79

***List of Exhibits***

1.	Phases of Mississippi’s Child Protection Process .....	6
2.	Rate of DHS’s Custody Admissions from 2007 to 2013 .....	22
3.	Percent of Children Leaving DHS’s Custody, in Hancock County and in the Average of All Other Mississippi Counties, from April 1, 2014, to September 30, 2014.....	24
4.	Average Number of Days Children Were in DHS’s Custody from April 1, 2014, to September 30, 2014.....	25
5.	Substantiated Reports of Child Maltreatment per 1,000 Inhabitants from October 1, 2013, to September 30, 2014 .....	26
6.	Comparison of the Number of Substantiated Reports of Child Maltreatment per 1,000 Inhabitants in Selected Counties to the Number of Children in DHS’s Custody per 1,000 Inhabitants, for the period of October 1, 2013, through September 30, 2014, with Associated Custody Removal Rates for the Same Period .....	27
7.	Comparison Between the Rates of Prevention, Protection, and Foster Care Services Provided in Hancock County and the Average Rate of Such Services Provided in Other Mississippi Counties from October 1, 2013, through September 30, 2014.....	29
8.	Estimated Financial Impact of Drug Testing Persons Accused of Child Maltreatment as a Percentage of Monthly Income on Selected Households Living at the Poverty Line in Hancock County in 2013.....	41
9.	Drug Testing Policies of the Hancock County Youth Court and Courts in Comparison Counties .....	42
10.	Percent of Public School Student Respondents that Reported the Illicit Consumption of Drugs in the Past Thirty Days in the 2014-2015 SmartTrack Survey...	62
11.	DMH Substance Abuse Clients per 1,000 Inhabitants as of February 2015 .....	63
12.	MBN Cases per 1,000 Inhabitants for FY 2014 .....	64
13.	Percent of Population that Moved from a Different State or Another County in the Same State .....	65
14.	Children in Single-Parent Households per 1,000 Children.....	66
15.	Percent of Population that has Graduated from High School or Obtained an Equivalent Degree .....	67
16.	DMH Mental Health Clients per 1,000 Inhabitants as of February 2015.....	68
17.	Births per 1,000 Teenage Female Inhabitants .....	69
18.	Percentage of Population Unemployed and the Percentage of the Population Living below Poverty .....	70

*List of Exhibits (continued)*

19.	Scatter Plot Showing the Statistical Relationship Between the Number of Children in State Custody as of December 31, 2014, and the Number of Termination of Parental Rights Cases as of January 31, 2015.....	73
20.	Selected Demographic and Performance Statistics for Hancock County and the Comparison Counties .....	75
21.	DFCS Performance Metrics, Comparison of Hancock County to Other Mississippi Counties, 2014 .....	78



# Issues Related to the Increase in the Number of Children in the Department of Human Services' Custody in Hancock County

## Executive Summary

### Introduction

The number of children in the Department of Human Services' custody<sup>\*</sup> in Hancock County as a result of allegations of abuse and/or neglect increased 148% over the last five years.<sup>\*\*</sup> This increase has strained the resources of all participants involved, including the Hancock County Youth Court, the Department of Human Services (DHS), community mental health providers, and the county's government, which must provide resources to cover certain expenses associated with youth court activities. As of December 31, 2014, Hancock County had 10.4 children in custody per one thousand inhabitants, which is the highest number of children in custody per 1,000 inhabitants of all Mississippi counties. The average number of children in custody per one thousand inhabitants in a Mississippi county was 1.3.<sup>\*\*\*</sup>

PEER sought to determine the issues related to and possible causes of the increase in the number of child protection cases in Hancock County within the last five years. The Committee sought to address the following objectives:

- identify the contributing factors to the disproportionate numbers of children in the Department of Human Services' custody compared to other counties in Mississippi; and,
- determine what options, resources, and strategies are available to help accommodate the number of children in the short term and reduce the number of children being taken into custody in the future.

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<sup>\*</sup> Although children in custody in Hancock County (and other Mississippi counties) for protection from abuse and neglect are technically in the custody of the state, for purposes of clarity, this report refers to these children as being in the [Mississippi] Department of Human Services' custody.

<sup>\*\*</sup> According to the Department of Human Services, the number of children in DHS's custody in Hancock County increased from 185 on December 31, 2009, to 459 on December 31, 2014.

<sup>\*\*\*</sup> PEER calculated the state average by adding the number of children in DHS's custody per one thousand inhabitants in each county and then dividing that figure by the number of counties in the state.

PEER's review did not include investigation of any alleged fraud or misrepresentation by staff of the entities reviewed. Also, PEER's review did not include a qualitative assessment of whether DHS's custody was appropriate for individual cases.

## Background

The participants primarily responsible for the child protection process in Mississippi are the youth courts and the Department of Human Services' Division of Family and Children Services. Court-appointed special advocates and regional community mental health centers also provide services that support the child protection process. The phases of the child protection process are intake, investigation, adjudication, and disposition, each encompassing multiple steps.

Regarding the child protection process in Hancock County:

- For the period 2007 through 2013, Hancock County had a higher rate of admissions to DHS's custody than the average of all other counties in the state. During that period, the number of children entering DHS's custody in Hancock County grew an average of approximately 47% per year.
- For the period of April 1, 2014, to September 30, 2014, Hancock County had a smaller percentage of children leaving DHS's custody than the state average.
- For the period of April 1, 2014, to September 30, 2014, the average number of days that children were in DHS's custody in Hancock County was less than the average for other Mississippi counties.
- For the period of October 1, 2013, to September 30, 2014, Hancock County had more than the double the number of substantiated reports of child maltreatment per one thousand inhabitants than the average for other Mississippi counties.

The high rate of child maltreatment in Hancock County does not explain the disproportionate number of children in DHS's custody in that county. For the period of October 1, 2013, through September 30, 2014, Tippah, Yalobusha, Pike, and Pontotoc counties had similar child maltreatment rates to that of Hancock County but had substantially fewer children in DHS's custody. However, for the same period, the Hancock County Youth Court placed children in foster care more often than other counties of the state.

External factors (such as demographic characteristics of families) and internal factors (such as the policies, practices, and personnel of the Department of Human Services and the youth court) are the forces that affect the number of children in DHS's custody in Hancock County.

## **What external forces could contribute to the number of children in DHS's custody in Hancock County?**

**Three external factors identified by community stakeholders and PEER's comprehensive literature review that may contribute to an increased rate of child maltreatment in Hancock County are the illicit consumption of drugs, a transient population, and the number of children living in single-parent households. However, no causal relationships were established by the data.**

Although the exact cause of child maltreatment has not yet been identified, research has identified a range of risk factors associated with child abuse occurrence and potential. These risk factors may be grouped into four broad categories: parent or caregiver factors, family factors, child factors, and environmental factors. Within these risk factors are components such as transience, mental health issues, illicit consumption of drugs, poverty, and unemployment.

Three factors identified by community stakeholders and PEER's comprehensive literature review that may contribute to an increased rate of child maltreatment in Hancock County are illicit consumption of drugs, a transient population, and the number of children living in single-parent households. However, no causal relationships were established by the data.

Although Section 42 housing was associated with an increase in DHS's custody, this increase could also be caused by population density. The geographic area in Hancock County with the largest number of children placed in DHS's custody had no Section 42 housing.

## **What internal forces could contribute to the number of children in DHS's custody in Hancock County?**

**High staff turnover and heavy workloads of Division of Family and Children's Services workers in Hancock County contribute indirectly to the number of children in DHS's custody in that county. Also, some of the Hancock County Youth Court's policies have had an effect on the number of children in DHS's custody in that county.**

High staff turnover and heavy workloads of Division of Family and Children's Services (DFCS) workers in Hancock County contribute indirectly to the number of children in DHS's custody in that county. While PEER was unable to quantify the impact of the turnover and tenure statistics for DFCS caseworkers and supervisors, a workforce that necessitates pre-service training at a rate higher than the state average and that cumulatively has 64% of its caseworkers and supervisors with less than two years' experience could potentially be contributing to the number of children in custody in Hancock County.

PEER analyzed workload data for DFCS caseworkers and supervisors for one day per month from November 2014

through February 2015, then averaged the results for the four days to approximate a workload over time. During that period, the workloads of 43% of Hancock County's caseworkers and 48% of its supervisors exceeded the workload standards set by DHS policy and the *Olivia Y.* Modified Service Agreement.

Within the Hancock County Youth Court, internal forces that could contribute to the large number of children in DHS's custody are risk reduction policies specific to that court, court procedures, and the caseloads of guardians ad litem. Hancock County's risk reduction policies for drug testing, investigations by court intake personnel, and visitation differ significantly from those of other counties within the state. These differences could have contributed to the large number of children in custody in Hancock County.

### **How have the internal forces described in this report contributed to the number of children in DHS's custody in Hancock County?**

The ability of Hancock County's DFCS staff to carry out their functions consistently and professionally could have an impact on the court's willingness to trust the agency's guidance and recommendations in the child protection process. Likewise, certain atypical policies and procedures of the Hancock County Youth Court could also have an impact on the outcomes of the process. Together, the performance of both players can impact the decisions of judges to take or retain custody of children who go through the process when other alternatives might be available.

Weaknesses cited in this report have affected Hancock County DFCS workers' ability to accomplish tasks essential to successful performance of their duties. Policies of the Hancock County Youth Court, while intended to protect children, have contributed to the number of children in DHS's custody and also contribute to friction between the court and the Department of Human Services' staff.

Weaknesses in the Hancock County DFCS staff's performance and Hancock County Youth Court's high position on the risk reduction policy spectrum have contributed to mistrust, lack of confidence, and friction between the two entities.

### **Recommendations**

1. The staff of the Department of Human Services and the Hancock County Youth Court should meet quarterly to discuss candidly the problems cited in this report or any other problems that arise related to the administration of child protective services. Specifically, the staff of the two entities should engage in dialogue regarding what should be reasonable expectations for the DFCS social service workers, including performance, training, and preparation for court, plus any other related personnel

matters the two consider relevant to the issue of staff performance.

- The Youth Court should cite specific, remediable deficiencies that DFCS could reasonably address through the assignment of new or more seasoned staff and the improvement in supervision and worker preparation.
- The DFCS staff should set out for the court any and all concerns it has related to the court's policies and procedures in such areas as investigations by court intake personnel, drug testing, court orders, as well as any other issues related to youth court operations that DHS considers to be pertinent to the effective implementation of a child-centered approach to abuse and neglect cases.

During these discussions, the Department of Human Services and the Hancock County Youth Court should seek the guidance and participation of the Mississippi Supreme Court's recently appointed Jurist in Residence. The Jurist in Residence is a highly experienced former youth court judge with experience in addressing the issues of court-DHS dynamics, program implementation, and development.

2. The Youth Court should explore possible revision of its drug testing policy by reducing the financial burden on persons who must be tested. Use of public funding or co-pays should be considered in lieu of requiring individuals to bear the cost of their own drug tests. Because the Hancock County Youth Court has the ultimate authority over court policy and procedure, HCYC should:
  - clarify and formally adopt its policy related to visitation;
  - provide guidelines to the Hancock County DFCS regarding the spaces and resources that are available to DFCS staff while waiting to attend court sessions; and,
  - review the workload of guardians ad litem and recommend to the Hancock County Board of Supervisors what additional funding is needed to address bringing the workload of the guardians ad litem closer to nationally recommended standards.
3. Both the HCYC and the Hancock County DFCS should maintain records of any particular cases, policies, and practices involving the intake, investigation, adjudication, and disposition of youth court abuse and neglect cases and report such information to PEER when it conducts its six-month follow-up.

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# Issues Related to the Increase in the Number of Children in the Department of Human Services' Custody in Hancock County

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## Introduction

### Authority

PEER reviewed the operations of the Hancock County Youth Court and Hancock County's office of the Department of Human Services' Division of Family and Children's Services (DFCS) as they related to child protection issues in that county. The Committee acted in accordance with MISS. CODE ANN. Section 5-3-51 et seq.

### Problem Statement

The number of children in Department of Human Services' custody<sup>1</sup> in Hancock County as a result of allegations of abuse and/or neglect has increased 148% over the last five years.<sup>2</sup> This increase has strained the resources of all participants involved, including the Hancock County Youth Court, the Department of Human Services (DHS), community mental health providers, and the county's government, which must provide resources to cover certain expenses associated with youth court activities. As of December 31, 2014, Hancock County had 10.4 children in custody per one thousand inhabitants, which is the highest number of children in custody per 1,000 inhabitants of all Mississippi counties. Stone County, with 5.6 children in custody per one thousand inhabitants, was a distant second to Hancock County. The average number of children in custody per one thousand inhabitants in a Mississippi county was 1.3.<sup>3</sup>

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<sup>1</sup>Although children in custody in Hancock County (and other Mississippi counties) for protection from abuse and neglect are technically in the custody of the state, for purposes of clarity, this report refers to these children as being in the [Mississippi] Department of Human Services' custody.

<sup>2</sup>According to the Department of Human Services, the number of children in DHS's custody in Hancock County increased from 185 on December 31, 2009, to 459 on December 31, 2014.

<sup>3</sup>PEER calculated the state average by adding the number of children in DHS's custody per one thousand inhabitants in each county and then dividing that figure by the number of counties in the state.

PEER received a legislative inquiry regarding the possible causes for the growth in the number of children in the Department of Human Services' custody in Hancock County over the last five years.

## Scope and Purpose

PEER sought to determine the issues related to and possible causes of the increase in the number of child protection cases in Hancock County within the last five years.

PEER sought to address the following objectives:

- identify the contributing factors to the disproportionate numbers of children in DHS's custody in Hancock County compared to other counties in Mississippi; and,
- determine what options, resources, and strategies are available to help accommodate this number of children in the short term and reduce the number of children being taken into custody in the future.

PEER reviewed information for the period of January 2013 to March 2015.

PEER's review did not include investigation of any alleged fraud or misrepresentation by staff of the entities reviewed. Also, PEER's review did not include a qualitative assessment of whether DHS's custody was appropriate for individual cases.

## Method

During the course of this review, PEER:

- reviewed relevant sections of MISS. CODE ANN. Title 43, Chapter 21;
- reviewed relevant sections of the Department of Human Services' policies and procedures;
- interviewed selected county stakeholders (e. g., staff of Gulf Coast Mental Health Center, law enforcement, school district staff, members of charitable organizations);
- reviewed related comments submitted to the Hancock County Youth Court Task Force;<sup>4</sup>

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<sup>4</sup>The Hancock County Youth Court Task Force was created in 2014 to help determine the causes of the number of children in DHS's custody and ways to reduce that number through either reunification or placement in the best interest of the child. The task force is composed of state and local government officials, law enforcement officers, representatives from the Department of Human Services and the Hancock County Youth Court, individuals from various community resources, and other stakeholders. The task force evolved from a community roundtable discussion that was an effort to gather



- reviewed relevant information from the *2013 American Community Survey* (U. S. Census Bureau);
- interviewed selected DFCS staff and selected youth court staff in Hancock County regarding issues related to children in custody;
- contacted the DFCS Deputy Administrator and the Chairman of the Mississippi Council of Youth Court Judges (see page 31); and,
- reviewed literature on child maltreatment<sup>5</sup> in order to determine whether external factors such as income, poverty, or transience are the principal drivers of Hancock County's large number of children in DHS's custody.

See page 57 for additional information on methods.

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stakeholders in the county's child protection system and facilitate an environment of open communication and discussion.

<sup>5</sup>The term *child maltreatment* encompasses various forms of child abuse and neglect.

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## Background

This chapter addresses the following:

- What are the phases of the child protection process?
- Who are the responsible participants in the child protection process?
- Does Hancock County have more children entering DHS's custody than other areas of the state?
- Does Hancock County have fewer children leaving DHS's custody than other areas of the state?
- Does Hancock County have children who stay in DHS's custody longer than other areas of the state?
- Does Hancock County have more incidents of child maltreatment than other areas of the state?
- How does the rate of child maltreatment affect the number of children in DHS's custody?
- Does Hancock County use terminations of parental rights more aggressively than other youth courts?
- What are the forces that affect the number of children in DHS's custody?

### **What are the phases of the child protection process?**

**The phases of the child protection process are intake, investigation, adjudication, and disposition, each encompassing multiple steps.**

As noted previously, the focus of this report is on the increase in the number of children in Hancock County who have been brought into the custody of the Department of Human Services as a result of allegations of abuse and/or neglect. Ultimate authority to remove and assign the custody of children in Mississippi resides with the youth court.

The child protection process involves several public and private entities that are responsible for four major phases of the child protection process:

- intake of complaints;
- investigating complaints of abuse and neglect;
- adjudicating these complaints; and,
- overseeing children and families after the complaint is adjudicated.

Exhibit 1, page 6, provides a broad description of the four major phases of the child protection process, the steps within those phases, the responsible participants, and the governing statutes for each phase of the process.

The following section discusses more fully the roles of the youth court, the Department of Human Services' Division of Family and Children's Services, and other participants in this process.

### **Who are the responsible participants in the child protection process?**

**The participants primarily responsible for the child protection process in Mississippi are the youth courts and the Department of Human Services' Division of Family and Children Services. Court-appointed special advocates and regional community mental health centers also provide services that support the child protection process.**

The participants involved in the child protection process in Mississippi are:

- the youth court;
- guardians ad litem, who are appointed by the youth court;
- the county office of the Department of Human Services' Division of Family and Children's Services;
- the county's court-appointed special advocates (CASA); and,
- the regional community mental health center, which provides a range of mental health services.

See pages 19 through 21 for descriptions of the roles of these participants.

## Exhibit 1: Phases of Mississippi's Child Protection Process

(see page 16 for notes to this exhibit)

### INTAKE PHASE

#### *Initial Steps*

- Reports of abuse or neglect can be made in the following manner:
  - through the DFCS website (via computer);
  - DFCS county office (via phone or visit);
  - MS Centralized Intake (via phone); or,
  - local youth court (via phone or visit).
- All reports are called in by the original source and entered into MS Centralized Intake (MCI). Typically, reports are made to MCI by the initial reporter.
- After receiving a report of abuse or neglect, DFCS must:
  - make an immediate referral to the youth court intake unit; and,
  - if the report involves abuse, notify the youth court clerk and the youth court prosecutor within seventy-two hours.
- If the report concerns sexual abuse or physical abuse causing serious bodily harm or abuse that is a felony under state law:
  - DFCS must immediately notify the proper law enforcement agency;
  - DFCS and the law enforcement agency must immediately investigate the reported abuse; and,
  - DFCS and the law enforcement agency must file, within twenty-four hours, a preliminary report with the prosecutor's office.
- If the report is an out-of-home setting, the same steps listed above must be followed, except the law enforcement agency must file, within forty-eight hours, a preliminary report with the prosecutor's office.
- Reports are screened through MCI and assigned a level.

#### *Responsible Participants*

- All persons who have reasonable cause to suspect child maltreatment and the professionals enumerated in MISS. CODE ANN. § 43-21-353 (1) (1972)
- DFCS, youth court intake officers, and any other qualified public employee relevant to the intake process as prescribed by MISS. CODE ANN. § 43-21-357 (1972)

## Exhibit 1 (continued)

### *Process and Governing Policies and Statutes*

- After the MCI Intake worker receives the report, it is assigned a level of one, two, or three using the MACWIS screening tool.<sup>A</sup>
- Reports screened as a level two or three are assigned a DFCS worker and level ones are referred to the appropriate authorities, if necessary.
- After the screening process, the intake unit must recommend:
  - no action be taken;
  - an informal adjustment process;
  - DFCS to monitor the child, family, and other children in the same environment;
  - that the parents be warned or counseled informally; or,
  - that a petition be filed.
- The court then orders whatever action it deems in the best interest of the child and in the interest of justice.
- DFCS should conduct a background check and home study prior to making a temporary placement of a child within its custody.

*U.R.Y.C.P. 8 and 9, DFCS Policy Manual Section B (D)(1) and (2), and MISS. CODE ANN. §§ 43-21-351 to -357 (1972)*

.....

### **Informal Adjustment Process<sup>B</sup>**

#### ***Initial Steps***

- DFCS may be ordered by the youth court to conduct an informal adjustment process for an abused or neglected child after the intake unit has completed its screening process.
- An informal adjustment counselor will initiate the process by conducting a conference pursuant to MISS. CODE ANN. § 43-21-405 (1972), which includes:
  - informing the participants of their rights;
  - informing the participants of information and procedures applicable to the process; and,
  - discussing recommendations for actions or conduct to correct the existing behavior and environment.

## **Exhibit 1 (continued)**

- A written agreement is signed by the informal adjustment counselor and the participants involved.

### ***Responsible Participants***

- An informal adjustment counselor appointed by the judge or designee
- Parents/legal guardians

### ***Process and Governing Policies and Statutes***

- If the written agreement is satisfactorily completed, the adjustment process is terminated with no further proceedings and the dismissal of the process is reported to the court.
- If the written agreement is not satisfactorily completed, the informal adjustment process is terminated and will be followed by the filing of a petition or a reinitiating of the intake procedure.

*U.R.Y.C.P. 8 and 9 and MISS. CODE ANN. §§ 43-21-401 to -407 (1972)*

## **INVESTIGATION PHASE<sup>c</sup>**

### ***Initial Steps***

- MCI transfers the report to the appropriate DFCS county office for investigation.
- DFCS worker presents investigation findings to the youth court intake officer.
- Intake officer makes recommendation to the youth court.

### ***Responsible Participants***

- DFCS, youth court intake officers, and any other qualified public employee relevant to the preliminary inquiry and investigation phase as prescribed in MISS. CODE ANN. § 43-21-357 (1972)

### ***Process and Governing Policies and Statutes***

- Level two and three reports are assigned a DFCS worker for investigation.
- DFCS supervisor checks these level assignments and can adjust levels if needed with the approval of the regional director.
- DFCS caseworker is assigned to investigate the report.
- After review by the DFCS supervisor, DFCS workers present their findings to the youth court intake officer.

## **Exhibit 1 (continued)**

- Youth court intake officer makes a recommendation to the youth court judge.

*U.R.Y.C.P. 8 and 9, DFCS Policy Manual Section B (D)(1) and (2), and MISS. CODE ANN. §§ 43-21-115, -123, -351, -357, and -403 to -407 (1972)*

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### **Safety Plans**

#### ***Initial Steps***

- After a report is made to DFCS, a worker will conduct a safety risk assessment to make sure that a child's basic needs are being met.

#### ***Responsible Participants***

- The DFCS worker assigned to the case
- Parents/legal guardians
- The youth court is usually not involved in safety plans.

#### ***Process and Governing Policies and Statutes***

- Safety plans are used in support of the Family-Centered Practice Model.
- Federal and state laws require that reasonable efforts be made to avoid removal of the child, if possible.
- If the DFCS worker isolates a safety concern, he/she will then address this concern with the parents or guardians of the child.
- If this safety concern can be curbed through an agreement between DFCS and the parents/guardians, then a safety plan will be created.

*DFCS Policy Manual Section C (I) (B) (1)*

.....

### **Prevention Plans**

#### ***Initial Steps***

- Prevention services can occur without reports of abuse or neglect.
- Families may request assistance due to lack of resources or some type of family dysfunction.
- The purpose of service provision is to prevent abuse, neglect, or family disruption.

## **Exhibit 1 (continued)**

### ***Responsible Participants***

- DFCS worker involved in the case
- Parents/legal guardians
- The youth court is not usually involved in prevention plans.

### ***Process and Governing Policies and Statutes***

- Prevention plans are voluntary services that occur between DFCS and the family.
- If the youth court becomes involved and there is a substantiated claim of abuse or neglect, the prevention plan becomes a protection plan.

*DFCS Policy Manual Section C (II) (A) (1)*

.....

### **Protection Plans**

#### ***Initial Steps***

- The difference between a prevention and protection plan hinges upon the presence of abuse or neglect.
- If there is no abuse or neglect, DFCS will begin a prevention plan.
- If there is abuse or neglect, DFCS will begin a protection plan.
- The only exception is when a court has issued an order that services be provided to a specific child or children within a family. These service plans will always be considered protection plans.

#### ***Responsible Participants***

- DFCS workers
- Parents/legal guardians
- The youth court may be involved.



## **Exhibit 1 (continued)**

### ***Process and Governing Policies and Statutes***

- The youth court will issue a protection plan to protect children from further abuse or neglect.
- The overall purpose of a protection plan is to prevent the unnecessary placement of children away from their families by providing in-home services aimed at restoring families in crisis to an acceptable level of functioning through a Family-Centered Practice approach.
- If the youth court finds that a protection plan is not feasible, it may order that DFCS take the children into custody.

*DFCS Policy Manual Section C (II) (A) (2)*

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### **Emergency Custody Order**

#### ***Initial Steps***

- A judge or designee can issue an order to take a child into custody for a period not to exceed forty-eight hours if there is probable cause of jurisdiction and necessity.

#### ***Responsible Participants***

- The judge or designee as prescribed by MISS. CODE ANN. § 43-21-307 (1972)

### ***Process and Governing Policies and Statutes***

- After the child is ordered into custody, the court may arrange for custody with a private institution or caring agency, commit the child to the Department of Mental Health if necessary, or order DFCS to provide for custody care and maintenance.

*U.R.Y.C.P. 7 and 11 and MISS. CODE ANN. §§ 43-21-301, -307, -311 and -315 (1972)*

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### **Shelter Hearings**

#### ***Initial Steps***

- A child taken into custody may be held for longer than temporary custody if necessary and if proper procedure is followed.
- A petition must be filed and the custody requirements of MISS. CODE ANN. § 43-21-301 (1972) must be met.

## **Exhibit 1 (continued)**

### ***Responsible Participants***

- The judge or designee in accordance with procedure as set out by MISS. CODE ANN. § 43-21-309 (1972)

### ***Process and Governing Policies and Statutes***

- Shelter proceedings are initiated if it is decided that the child needs to be held longer than forty-eight hours.
- Custody shall be deemed necessary:
  - if a child is endangered; or,
  - if any person would be endangered by the child; or,
  - to ensure the child's attendance in court at such time as required; or,
  - when a parent, guardian, or custodian is not available to provide for the care and supervision of the child;
  - and,
  - if there is no reasonable alternative to custody.

*U.R.Y.C.P. 16 and MISS. CODE ANN. §§ 43-21-301 and -309 (1972)*

## **ADJUDICATION PHASE<sup>D</sup>**

### ***Initial Steps***

- The youth court judge receives the intake officer's report and decides whether a hearing is needed.
- A petition is filed for abuse and neglect with the court.
- Summonses are issued to participants required to attend the hearing.
- The hearing is conducted as to whether the child will be considered abused or neglected.
- The case will be terminated or a disposition hearing will be held.

## **Exhibit 1 (continued)**

### ***Responsible Participants***

- The youth court intake officer is responsible for relaying his/her recommendations and DFCS's recommendations to the judge as prescribed in MISS. CODE ANN. § 43-21-357 (1972).
- The youth court prosecutor is responsible for filing the petition unless this responsibility has been designated to another party by the youth court as stated in MISS. CODE ANN. § 43-21-451 (1972).
- The clerk of the youth court is responsible for the issuing of summons under MISS. CODE ANN. § 43-21-501 (1972).

### ***Process and Governing Policies and Statutes***

- At the beginning of the adjudicatory hearing, the court verifies the information and explains procedures and rights.
- If the participants admit the allegations, the judge may accept the admission.
- If the participants deny the allegations, then an adjudicatory hearing is conducted. Proof is by a preponderance of the evidence, and if proved, the judge enters an order adjudicating the child as an abused or neglected child.

*U.R.Y.C.P. 20, 22, 24, and 25 and MISS. CODE ANN. §§ 43-21-357, -451, -501 to -507, and -551 to -561 (1972)*

## **DISPOSITION PHASE**

### ***Initial Steps***

- After the adjudicatory hearing, the youth court will immediately set a time for a separate disposition hearing.
- After considering all the evidence and relevant factors, the youth court will enter a disposition order.

### ***Responsible Participants***

- After the adjudicatory hearing, the youth court is responsible for immediately scheduling a separate disposition hearing as stated in MISS. CODE ANN. § 43-21-601 (1972).

### ***Process and Governing Policies and Statutes***

- The judge informs the participants of the purpose of the hearing.
- All of the evidence and relevant factors are considered and the court enters a disposition order.

**Exhibit 1 (continued)**

- The disposition order may include any of the alternatives set forth in MISS. CODE ANN. § 43-21-609 (1972).

*U.R.Y.C.P. 26 and 27 and MISS. CODE ANN. §§ 43-21-601, -603, and -609 (1972)*

.....

**Permanency Hearings**

***Initial Steps***

- Hearings are conducted within thirty days if there is a finding that reasonable efforts to maintain the child within the home are not required. Reasonable efforts are required until the permanency plan is achieved.
- Otherwise, hearings are conducted within six months after the earlier of either the adjudication of abuse or neglect, or the removal of the child from the home.

***Responsible Participants***

- The youth court
- DFCS workers
- Parents/legal guardians

***Process and Governing Policies and Statutes***

- At the hearing, the judge determines by examining the submitted written report and other statements whether the child should be:
  - returned to the parents/legal guardians;
  - placed with suitable relatives;
  - referred for termination of parental rights and placed for adoption;
  - placed for the purpose of establishing durable legal custody; or,
  - continue in foster care on a permanent or long-term basis because of the child’s special needs or circumstances.

*U.R.Y.C.P. 29 and MISS. CODE ANN. §§ 43-21-603 and -613 (1972)*

.....

## **Exhibit 1 (continued)**

### **Foster Care Review**

#### ***Initial Steps***

- Reviews are to be conducted by DFCS (or the court) once every six months after the child's initial forty-eight-hour shelter hearing.

#### ***Responsible Participants***

- DFCS or the youth court
- Parents/legal guardians

#### ***Process and Governing Policies and Statutes***

- The purpose of a foster care review is to evaluate:
  - extent of care and support by the parents;
  - communications by the parents or guardian;
  - compliance with the social service plan;
  - methods for achieving permanency;
  - social services that may be utilized for achieving permanency; and,
  - relevant testimony and recommendations pertaining to the case.
- The review plan, which is created based on the evaluations of the foster care review, is then filed with the court to determine the degree of compliance with the child's social service plan.

*U.R.Y.C.P. 30 and MISS. CODE ANN. § 43-15-13 (1972)*

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### **Permanency Review Hearings**

#### ***Initial Steps***

- Hearings are to be conducted at least annually after each permanency hearing for as long as the child remains in the custody of DFCS.
- At the hearing, the court must determine the adequacy of the child's permanency plan and, as deemed in the best interest of the child, make appropriate modifications.

## Exhibit 1 (continued)

### *Responsible Participants*

- The youth court
- DFCS
- Parents/legal guardians

### *Process and Governing Policies and Statutes*

- At the hearing, the judge determines by examining the submitted written report and other statements whether the child should be:
  - returned to the parents/legal guardians;
  - placed with suitable relatives;
  - referred for termination of parental rights and placed for adoption;
  - placed for the purpose of establishing durable legal custody; or,
  - continue in foster care on a permanent or long-term basis because of the child's special needs or circumstances.
- Additionally, unless not required under MISS. CODE ANN. § 43-21-603 (1972), the court must make a finding as to whether reasonable efforts have been made to maintain the child in the home.

*U.R.Y.C.P. 31 and MISS. CODE ANN. §§ 43-21-603 and -613 (1972)*

SOURCE: PEER analysis of *Mississippi DFCS Policy Manual* and *2014 Manual for Mississippi Youth Courts* (Updated October 2014).

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### **Notes to Exhibit 1**

<sup>A</sup>Definitions of reporting levels from the DHS Policy Manual:

- Level One: a report that does not meet the statutory criteria in MISS. CODE ANN. §§ 43-21-353 and 97-5-39 is screened out for DFCS and may receive a referral for information or a referral for services.
- Level Two: a report that meets the statutory criteria in MISS. CODE ANN. §§ 43-21-353 and 97-5-39, but is not considered felony child abuse, or the alleged victim is not a foster child, is screened in and assigned to a worker who must initiate the investigation within seventy-two hours of initial intake.

## Notes to Exhibit 1 (continued)

- Level Three: a report that is considered a felony as defined by MISS. CODE ANN. §§ 43-21- 353 and 97-5-39 or involves a foster child is screened in and assigned for investigation. The assigned worker has twenty-four hours from the initial intake to initiate the investigation. If the Intake Supervisor receives an intake and screening from MCI that indicates a child is in imminent danger, the Intake Supervisor assigns a worker for immediate response.

<sup>B</sup>The court may order DFCS to conduct the informal adjustment process for an abused or neglected child after the filing of a petition.

<sup>C</sup>The investigation phase discussed in this exhibit only pertains to abuse or neglect reports and does not include the process for delinquency reports. The investigation stage is covered statutorily by the same laws governing the intake stage.

<sup>D</sup>Adjudication is a court process used to obtain a formal judgment on a disputed matter.

<sup>E</sup>Disposition orders may include any of the alternatives set forth in MISS. CODE ANN. § 43-21-609 (1972):

- Release the child without further action.
- Place the child in the custody of parents, a relative, or other person subject to conditions and limitations the court may prescribe. If the court finds that placement is not in the best interest of the child, durable legal custody may be granted by the court to any person subject to limitations and conditions the court may prescribe.
- Order terms of treatment calculated to assist the child and the child's parent, guardian, or custodian.
- Order youth court personnel, the Department of Human Services, or child care agencies to assist the child and the child's parent, guardian, or custodian to secure social or medical services to provide proper supervision and care.
- Give legal custody of the child to any of the following but in no event to any state training school:
  - the Department of Human Services for appropriate placement; or,
  - any private or public organization, preferably community-based, able to assume the education, care, and maintenance of the child, which has been found suitable by the court.
- If the court makes a finding that custody is necessary and that the child had not previously been taken into custody, the disposition order shall recite that the effect of the continuation of the child's residing within his or her own home would be contrary to the welfare of the child and that the placement of the child in foster care is in the best interests of the child. The order also must state:
  - that reasonable efforts have been made to maintain the child within his or her own home, but that the circumstances warrant his or her removal and there is no reasonable alternative to custody; or,
  - the circumstances are of such an emergency nature that no reasonable efforts have been made to maintain the child within his or her own home and there is no reasonable alternative to custody; or,

**Notes to Exhibit 1 (continued)**

- if the court makes a finding in accordance with the above condition, the court shall order that reasonable efforts be made toward the reunification of the child with his or her family.
- If the court had, before the disposition hearing in the action pending before the court, taken the child into custody, the judge shall determine and the youth court order shall recite that reasonable efforts were made by the Department of Human Services to finalize the child's permanency plan that was in effect on the date of the disposition hearing.

Additionally, the judge may order: care for special needs; custodial support payments; persons to abide by conduct that is reasonable and necessary for the welfare of the child; financially able parents to pay for court-ordered medical examinations and treatment, reasonable attorney fees, court costs, and other expenses; and, enrollment or re-enrollment in school of a compulsory-school-age child. Disposition orders must comply with the requirements of state law.



## Youth Courts

***Youth Courts adjudicate, among other things, cases involving abuse and neglect of children.***

MISS. CODE ANN. Section 43-21-107 (1972) contains specific provisions regarding the establishment of youth courts in each county of the state. One of the responsibilities of youth courts is to adjudicate cases in which a minor's best interests would be served by court intervention to protect the child from abuse or neglect on the part of the child's parents or other persons in a custodial relationship with the child.

Each youth court judge must appoint an intake unit, often referred to as an intake officer, for the court (see MISS. CODE ANN. Section 43-21-115 [1972]). The intake officer is responsible for receiving reports of alleged abuse or neglect on the youth court's behalf and must make preliminary inquiries into the safety of any children involved in the reports. The intake officer may request or the court may order DFCS to make an investigation or report concerning children alleged to be victims of abuse or neglect. If the intake officer receives such a report, the officer must immediately forward the complaint to DFCS to begin an investigation or issue a report.

## Guardians Ad Litem

***Youth courts appoint guardians ad litem to represent the interests of children in abuse or neglect cases.***

A *guardian ad litem* is a special guardian appointed by the court to prosecute or defend, on behalf of children, a suit to which he or she is a party, and such guardian is considered an officer of the court to represent the interests of the child in the litigation. MISS. CODE ANN. Section 43-21-121 (1972) requires the appointment of a guardian ad litem "in every case involving an abused or neglected child which results in a judicial proceeding."

According to MISS. CODE ANN. Section 43-21-121 (1972), to be eligible for appointment as a guardian ad litem, an individual must be an attorney licensed in Mississippi or a layperson. In instances in which a layperson is appointed, the court shall also appoint a licensed attorney to represent the child's interest. (See CODE Section 43-21-121 [4]). In either case, the appointee(s) must have completed child protection and juvenile justice training provided or approved by the Mississippi Judicial College.

The American Bar Association outlines the standards of practice for guardians ad litem that require thorough, continuous independent investigation to participate in court, reduce case delays, counsel the child, develop a theory of strategy for the case, and identify appropriate resources for the child.

## **Department of Human Services' Division of Family and Children's Services' Office**

*The Mississippi Department of Human Services' Division of Family and Children's Services is responsible for investigating allegations of abuse or neglect, making appearances in youth court regarding these allegations and monitoring both children in custody and families wherein abuse and neglect has occurred.*

State law makes the Department of Human Services responsible for several functions regarding matters involving child abuse or neglect. From taking investigative steps after an intake report to taking custody of children, the Department's Division of Family and Children's Services social services employees investigate abuse or neglect matters upon request of the youth courts, prepare presentations for the court, and play a post-dispositional role by taking custody of children in some cases, monitoring families, and generally ensuring that families comply with their court-directed obligations regarding maintaining a proper family home, remaining free of illicitly consumed drugs and alcohol, and generally taking steps to ensure the safety and well-being of the child or children. For an overview of the department's legal duties, see MISS. CODE ANN. Sections 43-21-351 through 43-21-627 (1972).

DFCS policy and procedures are set at the state level and do not vary from county to county. However, youth court policies and procedures govern many of the interactions between DFCS and the youth court, so these policies and procedures may vary.

## **Court-Appointed Special Advocates**

*Court-appointed special advocates (i. e., CASA workers) assist the youth courts in assessing the needs of children who are in the court system.*

CASA workers are lay volunteers who assist the courts in determining and meeting the needs of children in the court system. While these persons do not have to be attorneys, social workers, or other licensed professionals, they must be trained and backed by professionals in relevant fields. CASA workers may assist in delivering or ensuring that children receive needed services and generally assist the court in obtaining information regarding the children's well-being. Although CASA workers are not available to all youth courts in the state, Hancock County does utilize them.

## **Community Mental Health Providers**

*Community mental health centers provide a source of counseling and other services available for children and their families and help the courts address the problems of families impacted by abuse or neglect of children.*

Regional community mental health centers operate under the supervision of regional commissions appointed by county boards of supervisors. The Region XIII Commission for Mental Health provides community mental health services to Hancock County through the Gulf Coast Mental Health Center. Fees for mental health care service are established according to a sliding scale that considers family size and income.

If a child is committed to the custody of DHS, and it is believed that the child is in need of mental health care services, DFCS is to file an affidavit with the youth court alleging that the child is in need of said services. The youth court then refers the child to the appropriate community mental health center for evaluation (see MISS. CODE ANN. Section 41-21-67 [1972]).

The Region XIII Commission for Mental Health also operates an alcohol and drug treatment center in Gulfport that provides drug and alcohol treatment programs for families. Drug testing is not a responsibility of these facilities.

### **Does Hancock County have more children entering DHS's custody than other areas of the state?**

**For the period 2007 through 2013, Hancock County had a higher rate of admissions to DHS's custody than the average of all other counties in the state. During that period, the number of children entering DHS's custody in Hancock County grew an average of approximately 47% per year.**

To determine whether Hancock County has more children entering DHS's custody than other counties in the state, PEER analyzed data from the Multistate Foster Care Data Archive (FCDA) maintained by the Center for State Child Welfare Data.<sup>6</sup>

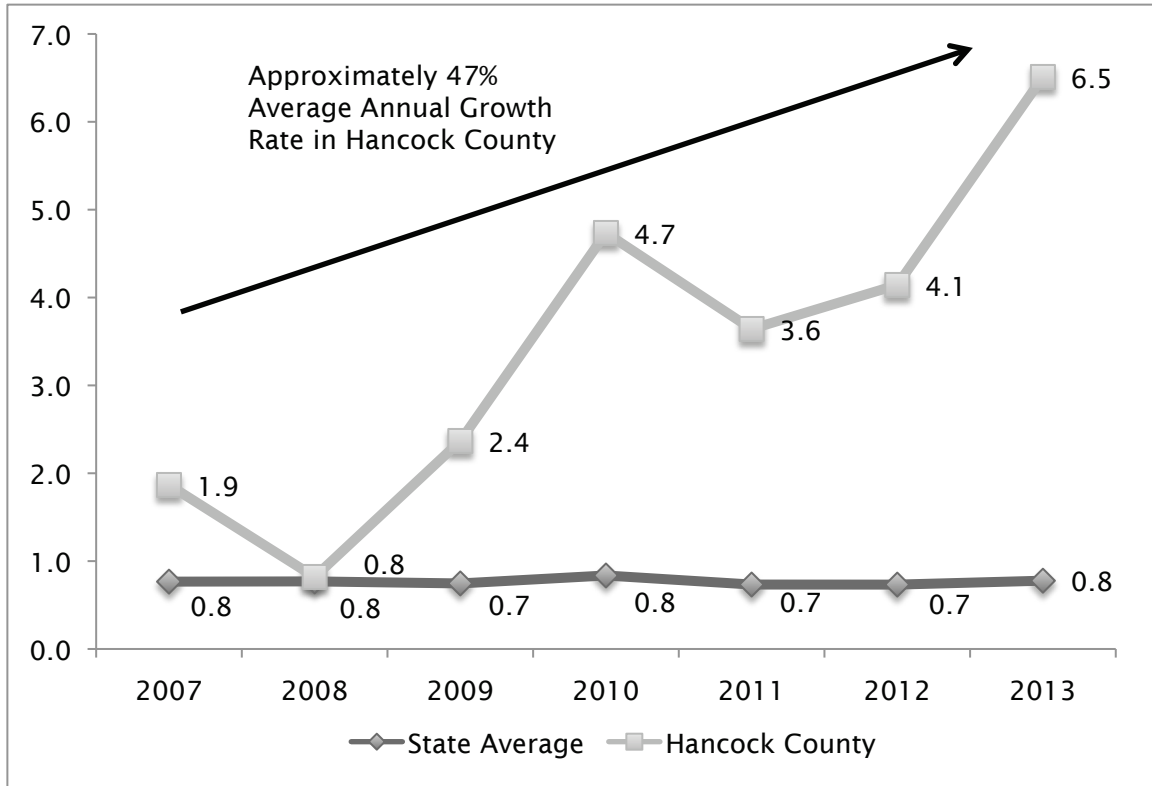
PEER divided the number of children entering DHS's custody from 2007 through 2013 by each county's population and then multiplied the result by one thousand to estimate the rate of admissions to DHS's custody for each county. Exhibit 2 on page 22 summarizes the results of this calculation.

As shown in Exhibit 2, while the rate of admissions to DHS's custody in Hancock County had both sharp increases and decreases, it was higher than the state average in all years except for 2008. For the period reviewed, the rate of admissions to DHS's custody in Hancock County increased at an average of approximately forty-seven percent per year.

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<sup>6</sup>The Center for State Child Welfare Data is a partnership between state child welfare agencies, the University of Chicago, the American Public Human Services Association, the Center for Social Services Research, and the University of California that provides research and technical assistance to promote evidenced-based decisionmaking in the field of child welfare.

**Exhibit 2: Rate of DHS's Custody Admissions from 2007 to 2013**



SOURCE: PEER analysis of data from the Multistate Foster Care Data Archive and the American Community Survey.

**Does Hancock County have fewer children leaving DHS's custody than other areas of the state?**

**For the period of April 1, 2014, to September 30, 2014, Hancock County had a smaller percentage of children leaving DHS's custody than the state average.**

To determine whether Hancock County has fewer children leaving DHS's custody than other counties in the state, PEER analyzed data from the most recent report of the Adoption and Foster Care Analysis and Reporting System (AFCARS).<sup>7</sup>

<sup>7</sup>The Federal Omnibus Reconciliation Act of 1986 established AFCARS to collect data on children in foster care. The most recent AFCARS report includes data from the period April 1, 2014, to September 30, 2014.

PEER divided the total number of children in DHS's custody from April 1, 2014, to September 30, 2014 (i. e., the reporting period of the most recent AFCARS report), by the number of children who left custody during that period. Exhibit 3 on page 24 summarizes the results of this calculation.

As shown in Exhibit 3, the percentage of children leaving DHS's custody in Hancock County was 8% lower than the state average for the period of April 1, 2014, to September 1, 2014. The percent of children leaving DHS's custody may be skewed lower than the state average by the large number of new custody admissions in Hancock County. As the number of children in DHS's custody increases, the effect of children leaving DHS's custody decreases. The high custody admission growth rate in Hancock County is discussed on page 21.

### **Does Hancock County have children who stay in DHS's custody longer than other areas of the state?**

**For the period of April 1, 2014, to September 30, 2014, the average number of days that children were in DHS's custody in Hancock County was less than the average for other Mississippi counties.**

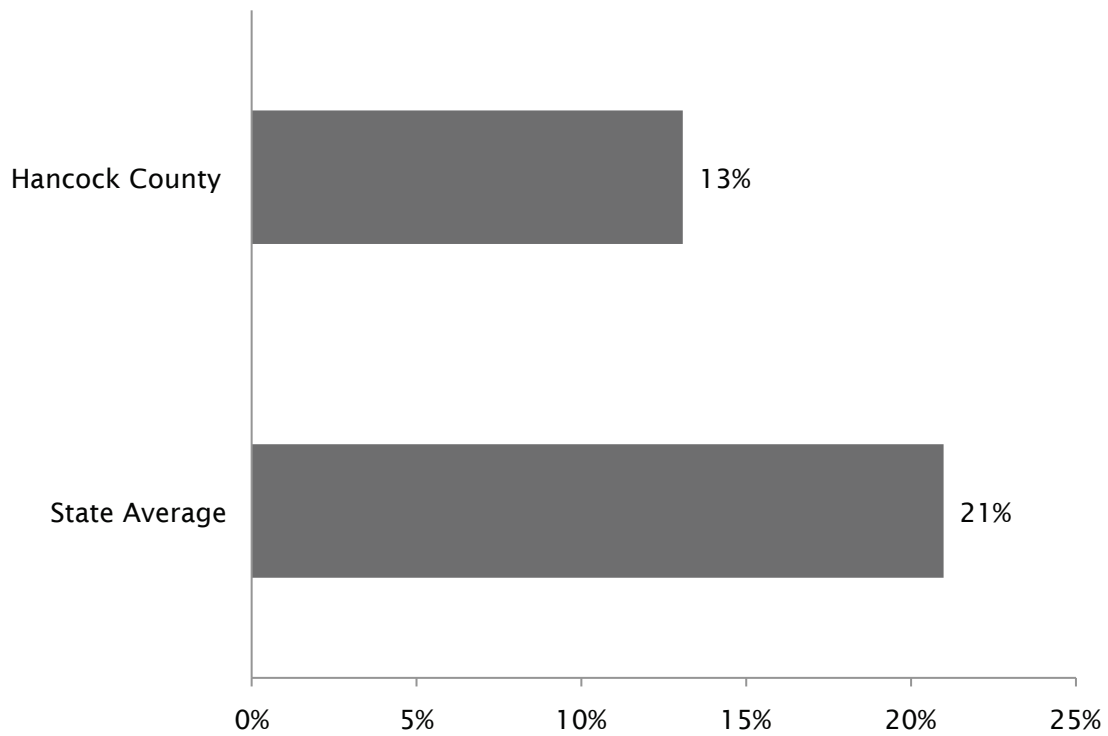
To determine the average number of days that children were in DHS's custody in each county in the state, PEER analyzed data from the most recent AFCARS report.

For the period April 1, 2014, to September 30, 2014, children in Hancock County in DHS's custody remained in custody for an average of 383 days, whereas the average duration of children in DHS's custody in other Mississippi counties was 543 days. (See Exhibit 4, page 25.)

The average duration of custody in Hancock County may be skewed lower than the state average by the large number of new custody admissions in Hancock County. Children who have recently been placed in DHS's custody would not have as many days in the system, which could reduce the overall average for duration in Hancock County. The high custody admission growth rate in Hancock County is discussed on page 21.

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**Exhibit 3: Percent of Children Leaving DHS's Custody, in Hancock County and in the Average of All Other Mississippi Counties, from April 1, 2014, to September 30, 2014**

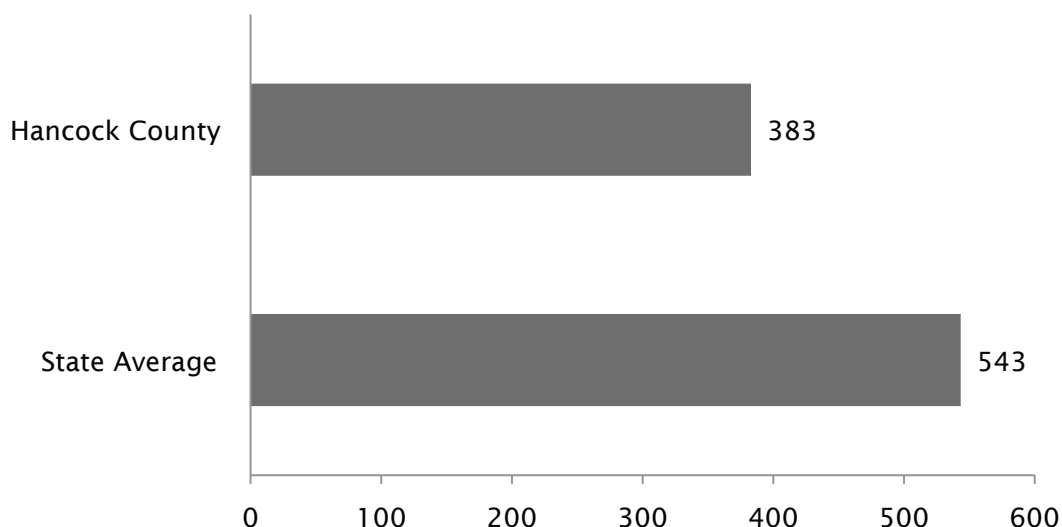


SOURCE: PEER analysis of data from the Adoption and Foster Care Analysis and Reporting System.

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**Exhibit 4: Average Number of Days Children Were in DHS’s Custody from April 1, 2014, to September 30, 2014**



SOURCE: PEER analysis of data from the Adoption and Foster Care Analysis and Reporting System.

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**Does Hancock County have more incidents of child maltreatment than other areas of the state?**

**For the period of October 1, 2013, to September 30, 2014, Hancock County had more than the double the number of substantiated reports of child maltreatment per one thousand inhabitants than the average for other Mississippi counties.**

To determine whether Hancock County has substantially more incidents of child maltreatment than other counties in the state, PEER analyzed the most recent report of the National Child Abuse and Neglect Data System (NCANDS).<sup>8</sup> NCANDS data can include reports from multiple sources about the same incident or multiple calls by a single source about an incident of maltreatment.

In order to estimate the rate of child maltreatment in each Mississippi county, PEER removed all duplicate reports in NCANDS to obtain a unique count of substantiated reports. PEER then divided the number of substantiated reports of child

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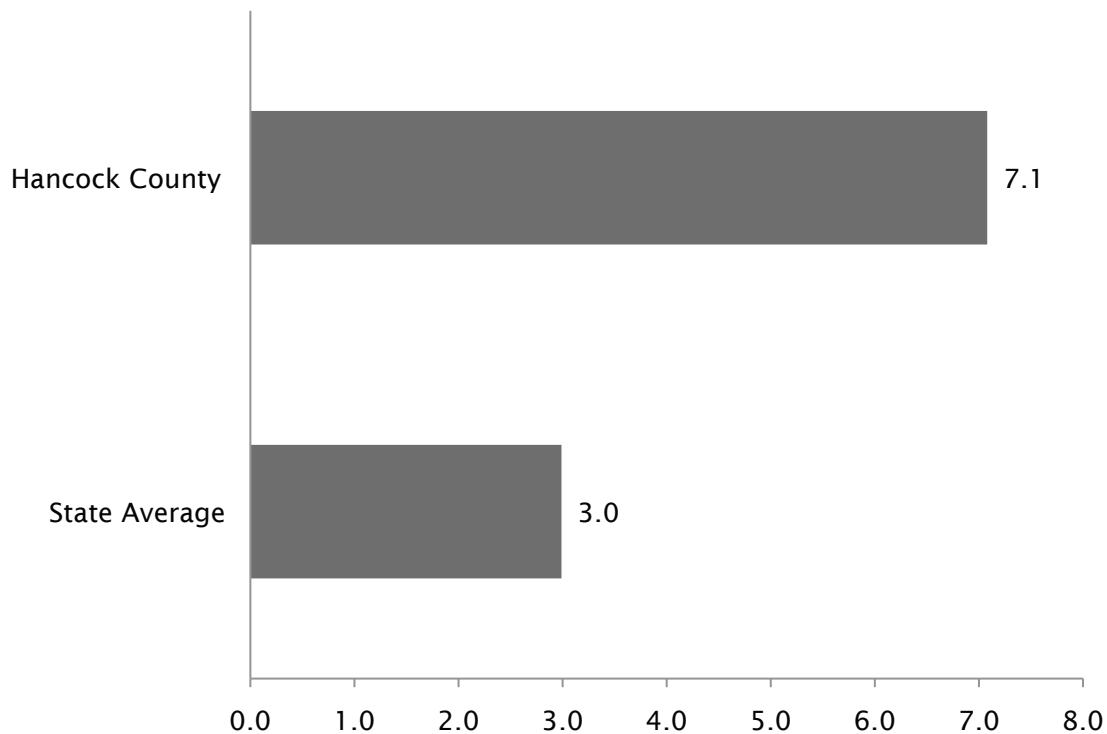
<sup>8</sup>The Federal Child Abuse Prevention and Treatment Act of 1988 established NCANDS, a voluntary data collection system that gathers data on reports of child maltreatment. The most recent NCANDS report includes data for the period October 1, 2013, to September 30, 2014.

maltreatment in each county from October 1, 2013, to September 30, 2014, by each county's population and multiplied the result by one thousand to generate an estimated rate of child maltreatment for each county. Exhibit 5, below, summarizes the results of this calculation.

According to PEER's analysis, for the period of October 1, 2013, to September 30, 2014, Hancock County had a higher rate of child maltreatment than the average for other Mississippi counties. Hancock County had 7.1 substantiated reports compared to an average of 3 substantiated reports for other counties in the state. PEER's review of external risk factors associated with child abuse and neglect supports this finding. (See Technical Appendix, page 57.)

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**Exhibit 5: Substantiated Reports of Child Maltreatment per 1,000 Inhabitants from October 1, 2013, to September 30, 2014**



SOURCE: PEER analysis of data from National Child Abuse and Neglect Data System and the American Community Survey.

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## How does the rate of child maltreatment affect the number of children in DHS's custody?

The high rate of child maltreatment in Hancock County does not explain the disproportionate number of children in DHS's custody in that county. For the period of October 1, 2013, through September 30, 2014, Tippah, Yalobusha, Pike, and Pontotoc counties had similar child maltreatment rates to that of Hancock County but had substantially fewer children in DHS's custody. However, for the same period, the Hancock County Youth Court placed children in foster care more often than other counties of the state.

As noted previously, for the period PEER reviewed, Hancock County had a higher estimated rate of child maltreatment than the average for other Mississippi counties. However, the rate of maltreatment does not explain the disproportionate number of children in DHS's custody in Hancock County.

For the period of October 1, 2013, through September 30, 2014, Tippah, Yalobusha, Pike, and Pontotoc counties had similar maltreatment rates to that of Hancock County, but had a significantly smaller number of children in DHS's custody. (See Exhibit 6, below, comparing the number of substantiated reports of child maltreatment to the number of children in DHS's custody for counties with a similar rate of child maltreatment to that of Hancock County.)

**Exhibit 6: Comparison of the Number of Substantiated Reports of Child Maltreatment per 1,000 Inhabitants in Selected Counties, for the period of October 1, 2013, through September 30, 2014, to the Number of Children in DHS's Custody per 1,000 Inhabitants, as of December 31, 2014, with Associated Custody Removal Rates for the Same Period**

County	Number of Substantiated Reports of Child Abuse and Neglect per 1,000 Inhabitants from October 1, 2013, to September 30, 2014	Number of Children in DHS's Custody per 1,000 Inhabitants as of December 31, 2014	Custody Removal Rates
Tippah	6.0	1.7	16.4%
Yalobusha	6.2	1.3	12.8%
<b>Hancock</b>	<b>7.1</b>	<b>10.4</b>	<b>39.8%</b>
Pike	7.1	0.5	6.6%
Pontotoc	7.2	1.7	15.5%

SOURCE: PEER analysis of data from DHS, National Child Abuse and Neglect Data System and the American Community Survey.

Community stakeholders interviewed by PEER reported that they believed that the Hancock County Youth Court was more likely to direct the use of foster care services (i.e., custody removal) than other forms of DFCS supervision such as

prevention or protection services.<sup>9</sup> To determine whether community stakeholders' allegations were true, PEER analyzed NCANDS data for October 1, 2013, through September 30, 2014. PEER determined a count of the unique number of children reported to Mississippi's child protection system for child maltreatment and compared these numbers to the numbers of children reported as receiving prevention services, protection services, and foster care services by DFCS. As Exhibit 7 on page 29 shows, the Hancock County child protection system provided services from October 1, 2013, through September 30, 2014, to approximately 56% of all children with reported incidents of maltreatment, with approximately 40% of those children being removed from their primary parental custodian and placed in DHS custody.

PEER then compared Hancock County's custody removal rate to the custody removal rates of other counties in the state for October 1, 2013, through September 30, 2014. This analysis showed that Hancock County's custody removal rate was the highest in the state, approximately two and a half times greater than that of the next closest county.

### **Does Hancock County use terminations of parental rights more aggressively than other youth courts?**

**In its review of data reported as of January 31, 2015, PEER did not find evidence of an institutional preference for the termination of parental rights over reunification on the part of the Hancock County Youth Court.**

As noted in Exhibit 2, page 22, one way a child may exit the youth court process is through a termination of parental rights. When parents have their parental rights terminated, their children are then available for adoption. *Termination of parental rights* (TPR) permanently ends the legal relationship between parent and child.

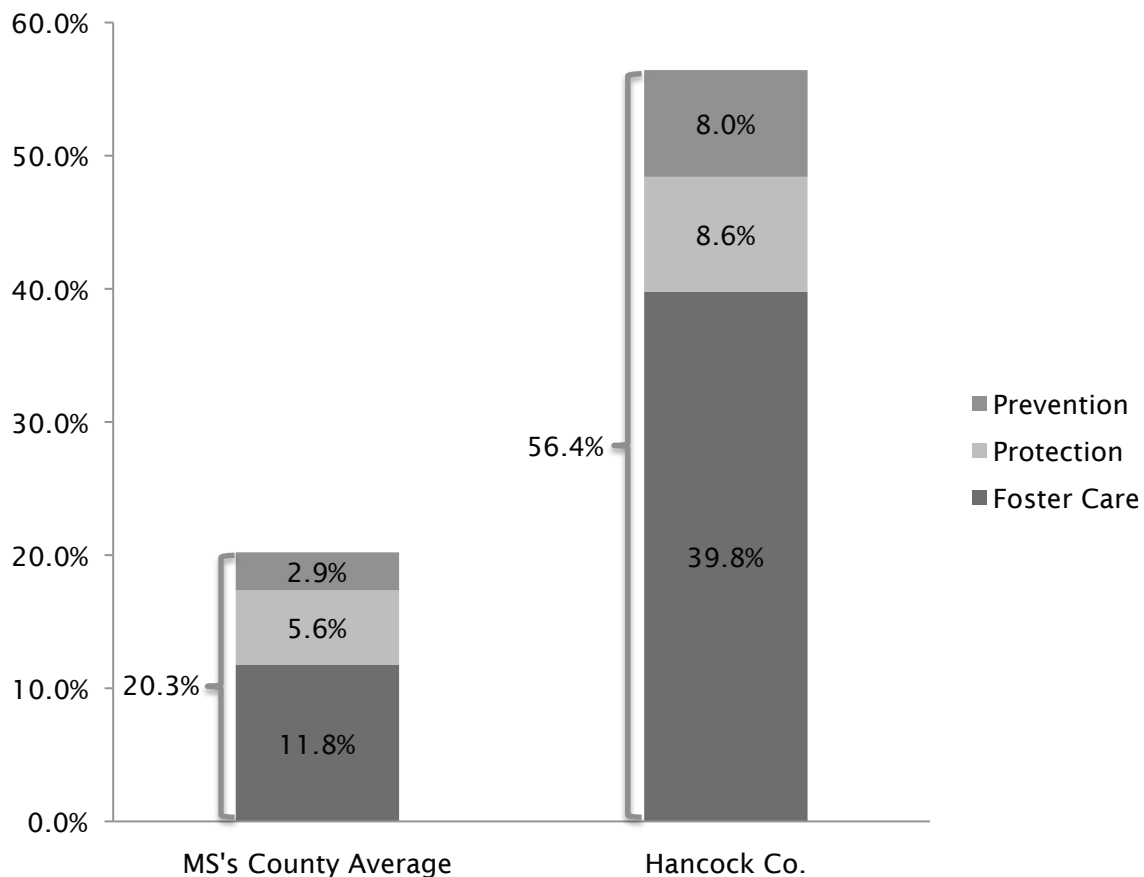
Community stakeholders had expressed concerns to PEER about whether the number of TPRs in Hancock County was inordinately high and exhibited an institutional preference for

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<sup>9</sup>Three levels of supervision are available in a county for cases of child abuse and neglect. These include both custodial and noncustodial services provided through the Mississippi Department of Human Services:

- *Prevention services* are provided to families with safety issues that could result in abuse or neglect. The purpose of the service is to prevent abuse, neglect, or family disruption.
- *Protection services* are provided to families in which abuse or neglect has occurred. The purpose of the service is to keep children in their home while protecting them from further abuse or neglect.
- *Foster care services* are provided to families in which DHS has taken legal custody and responsibility for a child through court order, voluntary parental placement, or release for adoption.

**Exhibit 7: Comparison Between the Rates of Prevention, Protection, and Foster Care Services Provided in Hancock County and the Average Rate of Such Services Provided in Other Mississippi Counties from October 1, 2013, through September 30, 2014**



SOURCE: PEER analysis of National Child Abuse and Neglect Data System and DHS Report on Prevention and Protection Plans.

termination of parental rights. PEER reviewed related statewide statistical datasets to address the concerns raised by community stakeholders.

To determine the number of TPR cases in Hancock County, PEER analyzed three different datasets:

- the Foster Care Review Unit, which tracks the number of cases that have not yet initiated the TPR Process;

- the TPR Tracking System at the DHS Permanency Unit, which tracks the number of cases submitted by counties for administrative review by DHS; and,
- the TPR Docket of the Office of the Attorney General, which tracks the number of cases proceeding with court action.

As of January 31, 2015, Hancock County had fifty-four open TPR cases, which represented 7.1% of all TPR cases in the state at that time. PEER calculated the number of TPR cases per one thousand inhabitants by dividing the number of TPR cases by county population and multiplying the result by one thousand. Hancock County had significantly more TPR cases per one thousand inhabitants than the average for other counties in the state.

However, after analyzing this information, PEER concluded that Hancock County actually had a lower number of TPR cases than PEER would have projected, based on total number of children in custody. (See Appendix A, page 72.) Consequently, PEER has concluded that as of January 31, 2015, Hancock County did not have an institutional preference for termination of parental rights over reunification of families.

## What are the forces that affect the number of children in DHS's custody?

**External factors (such as demographic characteristics of families) and internal factors (such as the policies, practices, and personnel of the Department of Human Services and the youth court) are the forces that affect the number of children in DHS's custody in Hancock County.**

PEER theorized that the forces affecting the number of children in DHS's custody in Hancock County could be external factors, internal factors, or both.

### External Factors

***External factors that could contribute to the number of children in DHS's custody include special and demographic factors such as income level, poverty, or transience.***

*External factors* that could contribute to the number of children in DHS's custody include special and demographic factors (e. g., income level, poverty, or transience) that could make some families more likely than others to be places where abuse or neglect might occur. To identify potential external forces, PEER:

- interviewed community stakeholders from the Hancock County Youth Court, Hancock County Office of the Department of Human Services' Division of Family and Children's Services, Hancock County Youth Court Task Force (see footnote, page 2), law enforcement personnel, school district personnel, and personnel of the Gulf Coast Community Mental Health Center;

- conducted a literature review regarding the risk factors for child maltreatment;
- obtained relevant data from the American Community Survey, Mississippi Bureau of Narcotics, Mississippi Department of Mental Health, Mississippi Department of Health, and Mississippi Department of Education;
- obtained relevant data from recent reports of the Adoption and Foster Care Analysis and Reporting System (AFCARS);
- obtained relevant data from the most recent report of the National Child Abuse and Neglect Data System (NCANDS); and,
- conducted statistical analysis of data from the above-listed sources to compare risk factors in Hancock County to those in other counties in the state.

The Technical Appendix, page 57, provides additional detail on PEER's study of risk factors associated with child abuse and neglect.

Pages 33 through 34 present the results of PEER's analysis of external factors.

## Internal Factors

***Internal factors that could affect the number of children in DHS's custody include policies and practices of the youth court and the Hancock County office of the Department of Human Services' Division of Family and Children's Services.***

The policies and practices of the youth court and the DFCS that affect adjudication of complaints, staffing, and management of each participant's respective role in the child protection process are what this report refers to as *internal forces* that could affect the number of children in DHS's custody.

To set a baseline for comparing Hancock County's internal forces to those of other counties, PEER asked for assistance from the DFCS and a representative of the youth court judges.

- PEER asked the DFCS Deputy Administrator to recommend counties to be used as comparison points and the Deputy Administrator chose counties based on these criteria: population, permanency plan development percentages, reunification within twelve months percentages, number of terminations of parental rights, statistics on Level 2 and 3 investigations (see note A, page 16), and statistics on face-to-face contact.
- PEER asked the Chair of the Council of Youth Court Judges for Mississippi to recommend counties with a reputation for operational efficiency that could be used as a baseline for comparison to Hancock County. The counties chosen are those that represent a diverse cross section of court types that handle child protection cases in a timely manner.

The counties suggested for further study and comparison to Hancock County (hereafter referred to as “comparison counties”) recommended by the DFCS Deputy Administrator and the Chair of the Council of Youth Court Judges for Mississippi were:

- Adams;
- Clay;
- Lafayette;
- Lowndes;
- Oktibbeha;<sup>10</sup>
- Pike;
- Stone; and,
- Washington.

DHS provided relevant data regarding DFCS operations from these comparison counties. PEER then gathered operational information via telephone survey regarding policy and procedure from courts in each of the aforementioned counties. Appendix B, page 74, provides selected demographic data for the comparison counties.

Pages 35 through 49 present the results of PEER’s analysis of internal factors.

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<sup>10</sup>Oktibbeha County was unable to participate due to time constraints.

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## What external forces could contribute to the number of children in DHS's custody in Hancock County?

Three external factors identified by community stakeholders and PEER's comprehensive literature review that may contribute to an increased rate of child maltreatment in Hancock County are the illicit consumption of drugs, a transient population, and the number of children living in single-parent households. However, no causal relationships were established by the data.

This chapter will address the following:

- What external risk factors are associated with child maltreatment?
- What was the result of PEER's analysis of external risk factors for child maltreatment in Hancock County?

### What external risk factors are associated with child maltreatment?

*Although the exact cause of child maltreatment has not yet been identified, research has identified a range of risk factors associated with child abuse occurrence and potential.*

PEER conducted a comprehensive literature review to determine what causes child maltreatment. Certain risk factors are associated with child maltreatment, but there is no strong empirical support for a causal relationship between each of these factors and child maltreatment.

Risk factors may be grouped into four broad categories:

- *Parent or caregiver factors* associated with child maltreatment include the parent's or caregiver's mental health, trauma history, ability to respond to stress, and parenting skills. Teenage parents or caregivers are associated with child maltreatment. A parent's or caregiver's illicit consumption of drugs is also closely associated with child maltreatment.
- *Family factors* associated with child maltreatment include marital conflict and domestic violence and stressful conditions such as unemployment and financial difficulty. A family that moves frequently and does not have a strong support network is associated with maltreatment. Single parent households are also associated with maltreatment.
- *Child factors* associated with maltreatment include the age, health, and any disability of the child.
- *Environmental factors* associated with child maltreatment include poverty and economic conditions. Violent

communities and neighborhoods are also associated with child maltreatment, as they may normalize violent behavior.

Within these risk factors are components such as transience, mental health issues, illicit consumption of drugs, poverty, and unemployment.

## What was the result of PEER's analysis of external risk factors for child maltreatment in Hancock County?

*Three factors identified by community stakeholders and PEER's comprehensive literature review that may contribute to an increased rate of child maltreatment in Hancock County are illicit consumption of drugs, a transient population, and the number of children living in single-parent households. However, no causal relationships were established by the data. Although Section 42 housing was associated with an increase in DHS's custody, this increase could also be caused by population density. The geographic area with the largest number of children placed in DHS's custody had no Section 42 housing.*

To identify potential causes for the high rate of child maltreatment in Hancock County, PEER interviewed stakeholders from Hancock County, performed a literature review, and analyzed data from multiple sources regarding risk factors for child abuse and neglect. Stakeholders identified many of the risk factors listed above as potential causes of child maltreatment, in addition to the number of families living in Section 42 housing in that county.<sup>11</sup> PEER's literature review did not identify Section 42 housing as a potential risk factor.

PEER found some statistical relationships between risk factors and child maltreatment but no causal relationships were established by the data. Three factors identified by community stakeholders and the comprehensive literature review may contribute to an increased rate of child maltreatment in Hancock County. These factors are illicit consumption of drugs, a transient population, and the number of children living in single-parent households.

Section 42 housing was associated with an increase in DHS's custody, but this increase could also be caused by population density. The geographic area with the largest number of children placed in DHS's custody had no Section 42 housing.

See the Technical Appendix, page 57, for a description of PEER's analysis of the risk factors for child maltreatment in Hancock County.

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<sup>11</sup> *Section 42 housing* is a form of housing available for low-income persons. The housing derives its name from 26 USC Section 42, a provision of the Internal Revenue Code adopted as part of the Tax Reform Act of 1986. Section 42 authorizes not-for-profit developers of low-income housing to receive income tax credits that they can transfer to for-profit firms in exchange for development capital. In Mississippi, the Mississippi Home Corporation is responsible for developing plans for allocating tax credits to developers and their projects.



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## What internal forces could contribute to the number of children in DHS's custody in Hancock County?

**High staff turnover and heavy workloads of Division of Family and Children's Services workers in Hancock County contribute indirectly to the number of children in DHS's custody in that county. Also, some of the Hancock County Youth Court's policies have had an effect on the number of children in DHS's custody in that county.**

As noted in the previous chapter, PEER found no direct causal relationship between external factors and the number of children in DHS's custody in Hancock County; therefore, this chapter will address internal forces that could contribute to this number.

The youth courts and the Department of Human Services work together in providing services to children and families affected by abuse and neglect. The practices, policies, staffing training and management of each participant's respective role in the process are the internal forces that affect the number of children in custody.

This chapter will address the following:

- What internal forces within the Hancock County office of the Division of Family and Children's Services contribute to the number of children in DHS's custody in that county?
- What internal forces within the Hancock County Youth Court contribute to the number of children in DHS's custody in that county?

### **What internal forces within the Hancock County office of the Division of Family and Children's Services contribute to the number of children in DHS's custody in that county?**

***High staff turnover and heavy workloads of Division of Family and Children's Services workers in Hancock County contribute indirectly to the number of children in DHS's custody in that county.***

Regarding the Hancock County office of the DHS Division of Family and Children's Services, the internal forces that contribute to the large number of children in DHS's custody are:

- a high rate of turnover in DFCS caseworkers and caseworker supervisors; and,

- heavy workloads of DFCS caseworkers.

## High Turnover of Caseworkers and Supervisors

*While PEER was unable to quantify the impact of the turnover and tenure statistics for DFCS caseworkers and supervisors, a workforce that necessitates pre-service training at a rate higher than the state average and that cumulatively has 64% of its caseworkers and supervisors with less than two years' experience could potentially be contributing to the number of children in custody in Hancock County.*

PEER obtained reports for the Hancock County and comparison counties' DFCS offices regarding the number of participants in pre-service training (i. e., training for new employees) for caseworkers and supervisors for FY 2014. PEER also obtained position allocation and vacancy data for the Hancock County and comparison counties' DFCS offices for January 31, 2012, through December 31, 2014.

While DFCS staffing levels have increased in Hancock County in recent years, analysis of data for FY 2014 shows that turnover continues to be an issue in both the caseworker and supervisor positions. Hancock County sent seven replacement caseworkers and one replacement supervisor to pre-service training during FY 2014. This represents an increase of 295% and 54% over the state average training rates of 1.77 and .65 for caseworkers and supervisors, respectively.

PEER also assessed the tenure of Hancock County DFCS staff as of December 31, 2014. PEER calculated the tenure of each person that was filling a position by comparing the report end date of December 31, 2014, to his or her hire date to represent his or her tenure. From these statistics, PEER determined that the percentage of caseworkers and supervisors with two years' or less experience were 73% and 27%, respectively.

While PEER was unable to quantify the impact of these turnover and tenure statistics, a workforce that necessitates training at a rate higher than the state average and a workforce that cumulatively has 64% of its caseworkers and supervisors with two years' or less experience could be contributing to the number of children in custody in Hancock County. For example, judges could potentially bring more children into custody to help assure their safety instead of relying on the opinions and conclusions of a newer workforce. Additionally, higher turnover could lead to children staying in custody longer due to the learning curve inherent whenever cases are assigned to new caseworkers.

DHS reports that when considering the method of calculating workforce turnover used by the Council on Accreditation,<sup>12</sup> the workforce in Hancock County has been one of its most stable

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<sup>12</sup>The Council on Accreditation is an international, independent, nonprofit human services accrediting organization that accredits the full continuum of child welfare, behavioral health, and community-based social services.

county workforces. However, these reports are based on regional data compiled for different periods. DHS was unable to compile information for the other selected counties or the state as a whole prior to the completion of this project, but reports that it will begin tracking this information.

## Heavy Workloads of DFCS Caseworkers and Supervisors

*PEER analyzed workload data for DFCS caseworkers and supervisors for one day per month from November 2014 through February 2015, then averaged the results for the four days to approximate a workload over time. During that period, the workloads of 43% of Hancock County's caseworkers and 48% of its supervisors exceeded the workload standards set by DHS policy and the Olivia Y. Modified Service Agreement.*

In accordance with the *Olivia Y. Modified Service Agreement*, DFCS policy has implemented workload standards for caseworkers and supervisors. (See Appendix C, page 76, for summary information on *Olivia Y.*) These workload limits vary based on the employee's job classification.

For caseworkers, DHS measures workload assignments in caseload units. Caseload units are a factor of the assigned number of minutes a task should take to complete compared to a worker's monthly time available to accomplish dedicated workload. For supervisors, DHS measures workload based on the number of employees under their direct supervision. DHS has set the workload standards at 100 caseload units for caseworkers and five direct service employees (i. e., caseworkers providing direct services to families) per supervisor.

PEER analyzed the workload data of caseworkers and supervisors for one day per month from November 2014 through February 2015 and averaged the results of the four days to approximate a workload over time. Based on this analysis of the four days' average, 43% of the workloads of Hancock County's caseworkers and 48% of the workloads of supervisors exceeded the standards during this period. Results from all other counties statewide over the same four-day average showed that the workloads of 24% of caseworkers and 19% of supervisors exceeded the standards.

PEER also analyzed total capacity measures for Hancock County caseworkers. *Total capacity* is the maximum workload that could be assigned to a staff of a particular size and is calculated by multiplying the total number of caseworkers by the maximum caseload unit figures mandated by DHS policy. In all four days PEER reviewed, Hancock County's total capacity was sufficient to cover the total workload assigned to Hancock County. The average number of caseworkers needed for the four days reviewed was thirty caseworkers, with a total average assigned caseworker workforce of thirty-four.

When taken together, workload percentages and total capacity show that the DFCS staff in Hancock County is having difficulty

balancing the workload in comparison to other areas of the state. Although PEER did not definitively determine causes for this problem, when queried, DFCS management attributed these problems to an inability to acquire and adequately train, in a timely manner, additional staff to cover the rapidly increasing caseloads of children in custody. PEER notes these statistics could also be the result of a need by DFCS management to account for the effects of increased turnover by assigning cases to more experienced workers.

PEER acknowledges that total capacity measures can be misleading because they assume that each caseworker, regardless of experience, is capable of handling the assigned workload with the same level of skill and efficiency.

PEER believes that having caseworker and supervisor workloads that exceed standards could contribute to the number of children in custody. The standards are set to allow each worker sufficient time to complete accurately all work tasks inherent in a given assignment. Workloads in excess of the maximum mean either that workers have less time to complete a given task or that they will have to work overtime to accomplish all job responsibilities. While the results PEER assessed were daily results and not reflective of the months as a whole, having workloads that exceed standards month after month would be evidence of a systemic problem.

## **What internal forces within the Hancock County Youth Court contribute to the number of children in DHS's custody in that county?**

*Within the Hancock County Youth Court, internal forces that could contribute to the large number of children in DHS's custody are risk reduction policies specific to that court, court procedures, and the caseloads of guardians ad litem.*

### **Risk Reduction Policies**

*Hancock County's risk reduction policies for drug testing, investigations by court intake personnel, and visitation differ significantly from those of other counties within the state. These differences could have contributed to the large number of children in custody in Hancock County.*

#### ***Drug Testing***

Hancock County is the only county within the comparison counties that requires persons accused of child maltreatment involving the illicit consumption of drugs to be drug tested twice per month at their own expense.

In Hancock County, if a report of child maltreatment is accompanied by an allegation or suspicion of illicit consumption of drugs, the HCYC requires that all adults living

in that child's home be drug tested<sup>13</sup> with a twelve-panel laboratory-certified test. If both adults test positive for illicit consumption of drugs, then the HCYC removes the child from the home. If only one adult in the home tests positive for illicit consumption of drugs, then that adult must move out of the home in order to prevent custody removal of the child.

However, there is an exception regarding the illicit consumption of cannabis. If an adult tests positive for marijuana, removal of the children is decided on a case-by-case basis (which is the policy of the comparison courts as well).

### **Frequency of Testing and “Presumptive Positives”**

After children are placed in DHS's custody in Hancock County, the HCYC requires parents or caregivers who tested positive for the illicit consumption of drugs to take two random drug tests per month. Once the individuals have taken and passed the required drug screens for an amount of time deemed sufficient by a judge, DFCS may request a reduction in the frequency of the drug tests to once per month or may cancel them altogether.

If an individual does not take the test for any reason, the HCYC treats the test as a presumptive positive. This presumption allows the HCYC to assume that the drug test is positive until such a time as the evidence outweighs the presumption.

### **Payment for Testing**

If the individual who is tested for the illicit consumption of drugs cannot pay for the testing up front, the HCYC pays and requires reimbursement within sixty days. If the court is not reimbursed, the HCYC finds the individual to be in contempt of court if he or she does not attend the next regularly scheduled hearing. Contempt of court is punishable by a fine not to exceed five hundred dollars and/or by imprisonment in jail not to exceed ninety days. Although HCYC has indicated that it will work with individuals on payment plans for the drug screens if they show up to court and are willing to pay, the policy of placing the cost of these tests fully on the individuals being tested is a policy unique to HCYC in terms of the comparison courts.

### **Financial Impact of Drug Testing Payment Policy on Families**

PEER analyzed the financial impact of HCYC's drug testing payment policy on families using the U. S. Census Bureau's poverty thresholds based on the number of adults and children in each household. Based on these poverty thresholds, PEER

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<sup>13</sup>PEER notes that in Mississippi, no legal authority requires a child to be deemed “neglected” solely because a person responsible for the welfare of a child tests positive for drugs. Therefore, the court does not have to consider a child as neglected solely because the child's guardian failed a drug test.

calculated the portion of monthly income that would be required to comply with the HCYC drug testing policy for various household types and sizes (e. g., one adult and two children, two adults and one child).

The monthly income figures used in PEER's calculation represent the level of income a family would need to meet the cost of basic necessities. Any expenses in excess of these necessities could place a burden on families and limit parental compliance with HCYC's drug-testing policy and other court orders.<sup>14</sup>

PEER's analysis using 2013 data for poverty thresholds and costs associated with the drug testing model typically used by the HCYC shows that drug testing would require approximately four to nine percent of the monthly income of the household types reviewed (see Exhibit 8, page 41). According to the American Community Survey, 19% of residents in Hancock County live on income levels *below* the poverty line, which serves to exacerbate this issue.

Data limitations prevented PEER from measuring the impact of drug screen costs on the child protection system in Hancock County. DHS and AOC do not track the number of cases that may be affected by poverty. Also, how often cost affects parental compliance is not readily available. However, during its on-site review of a sample of DFCS files, PEER observed multiple records with drug tests missed, reportedly because of inability to pay for the testing.

### **How Hancock County Drug Testing Policy Differs from That of Comparison Counties**

In summary, drug-testing policy differs between HCYC and the comparison courts in the following ways:

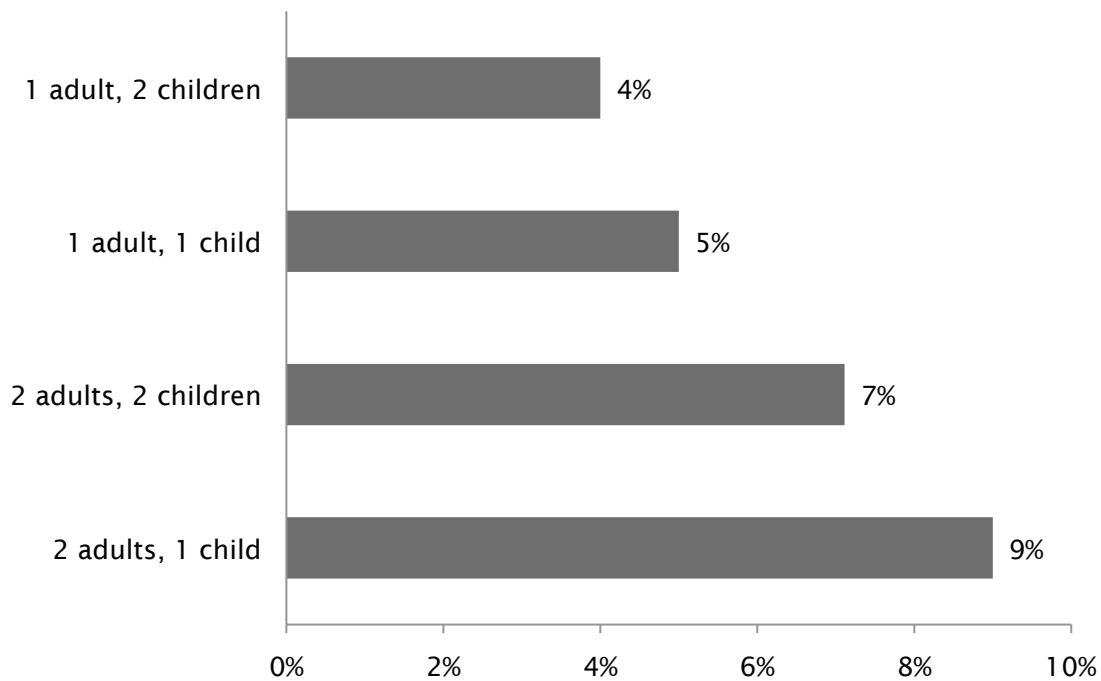
- HCYC requires the adult who was drug tested to reimburse the court for the test and will potentially hold said party in contempt if he/she does not pay. The comparison courts do not normally require the adult who was drug tested to pay or reimburse the court for the drug test unless they believe the individual is able to do so; DFCS or a drug court usually covers the cost. Therefore, contempt cases for non-reimbursement of drug test costs were not reported as an issue by the comparison courts.

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<sup>14</sup>Poverty thresholds do not account for geographic variations in costs and living costs beyond a basic food budget. An alternative measure of basic needs, Massachusetts Institute of Technology's *Living Wage Calculator: 2014 Update*, uses geographic data on expenditures to estimate expenses not included in the census poverty threshold. These expenses include food, child care, health insurance, housing, transportation, and other basic necessities such as clothing and personal care items. This study indicated the household types reviewed by PEER would require on average an 83% percent increase in annual income to meet the basic needs of households.

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**Exhibit 8: Estimated Financial Impact of Drug Testing\* Persons Accused of Child Maltreatment as a Percentage of Monthly Income on Selected Households Living at the Poverty Line in Hancock County in 2013**



\*Drug testing costs assumed two twelve-panel drug screens with independent lab confirmation per month.

SOURCE: PEER analysis of U. S. Census Bureau poverty threshold estimates for 2013 by size of family and number of related children under 18 years.

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- HCYC is more involved in drug testing than the comparison courts. HCYC designates a third-party contractor, ASAP, to conduct its drug screens rather than relying on DFCS to choose a provider. The comparison courts either rely on DFCS or a drug court to handle the testing process.
- HCYC uses a twelve-panel laboratory certified lab test (conducted by the third-party contractor) for its random drug screens after an investigation has been opened. None of the comparison courts use higher than a nine-panel test. Also, the comparison courts' testing frequency occurs on a case-by-case basis and the cost of the test is paid by DHS or the court.

Exhibit 9, page 42, shows the differences in Hancock County and the comparison courts regarding drug testing policy.

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**Exhibit 9: Drug Testing Policies of the Hancock County Youth Court and Courts in Comparison Counties**

<b>County</b>	<b>Payment Responsibility Regarding Drug Tests</b>	<b>Who Handles/Schedules the Drug Tests</b>
Hancock	Offending Party	HCYC (using contractor)
Adams	DHS	Drug Court
Pike	DHS	Drug Court
Clay	DHS	DHS
Stone	DHS	DHS
Lowndes	DHS	DHS
Washington	DHS	DHS
Lafayette	DHS	DHS

SOURCE: PEER telephone survey of comparison counties.

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PEER contacted officials at DHS in regard to funding for drug testing in different counties. DHS indicated that there are no funds allocated to counties that are specifically earmarked for drug testing purposes. County DHS offices receive funding from several sources, including federal pass-through funds in the form of Social Services Block Grants, state funds from DHS's budgeted funds, and in some counties, local funds provided by the county's boards of supervisors.

These funds are used to cover expenditures for a variety of items including children's clothing, medical care and testing (including drug testing), food, and medication. For more information on these funding sources, their methods of distribution, and limitations on their expenditure, see Appendix B on page 74.

In interviews with local DFCS staff in the comparison counties, the various staffs responded that they pay for drug tests with these funds when necessary, while staff in Hancock County responded that they do not.

The fact that persons ordered to be tested must ultimately pay for their tests could result in persons not being able to comply with their service plan requirements because they cannot afford the tests.

HCYC's drug policy may also be contributing to distrust between HCYC and DFCS staff. The staffs of the comparison courts interviewed that did not have access to a drug court all



indicated that they rely on DFCS to schedule and handle the drug testing procedure. HCYC's policy of implementing its own methods and procedures regarding drug testing procedure is indicative of the distrust the court has in DFCS's ability to handle this matter.

PEER was unable to determine the impact of the illicit consumption of drugs on children in DHS's custody. There is no readily available record kept on reports of child maltreatment that also contains information regarding the parent's or caregiver's illicit consumption of drugs. DFCS staff from the comparison counties reported that most reports of child maltreatment usually include allegations of drug use, but they could not provide specific numbers.

### ***Investigations by Court Intake Personnel***

Investigations by intake personnel of the Hancock County Youth Court are more extensive than those of other youth courts PEER surveyed. This could contribute to the county's large number of children in custody.

Intake is the process by which complaints of abuse and neglect are taken, recorded, and directed for investigation. MISS. CODE ANN. Section 43-21-357 (1) (1972) specifically provides the following respecting intake and subsequent investigation of complaints:

*After receiving a report, the youth court intake unit shall promptly make a preliminary inquiry to determine whether the interest of the child, other children in the same environment or the public requires the youth court to take further action. As part of the preliminary inquiry, the youth court intake unit may request or the youth court may order the Department of Human Services, the Department of Youth Services, any successor agency or any other qualified public employee to make an investigation or report concerning the child and any other children in the same environment, and present the findings thereof to the youth court intake unit.*

Thus the youth court's intake officer has considerable authority to direct investigations to the Department of Human Services or other public entities. While the authority is broad, practice in most of the state's youth courts appears to be considerably narrower than permitted by statute.

However, the HCYC has engaged in investigative practices that do not fall within the norm, based on PEER's survey of comparison counties. Of the counties surveyed, HCYC was the only one with a history of going beyond the Department of Human Services or the guardians ad litem for investigation of matters associated with intake.

PEER learned from DHS that in Hancock County:

- The court intake officer has conducted separate investigations of persons who may have been involved in abuse or neglect and has on some occasions run National Crime Information Center (NCIC) checks on persons. NCIC is a national database available for law enforcement officials to conduct background investigations of individuals.
- The court has sometimes directed the taking of children into custody prior to completion of a DHS investigation.

While PEER notes that such actions may have been precipitated by the court's concern for a lack of stability or professionalism on the part of DFCS, the practice is nonetheless outside the usual range of practice found in the comparison counties and could contribute to the county's large number of children in custody.

### ***Visitation***

The HCYC's policies regarding visitation have recently changed to be less stringent. The previous HCYC policy of reducing visitation based on drug screening results may have contributed to the number of children in custody by keeping children in the system longer, requiring resources that could have been spent on current cases.

PEER identified research studies that show that higher rates of visitation run parallel to higher rates of reunification. HCYC staff reported that in the past they had required two negative drug screens of parents before allowing visitation. None of the comparison courts required a set number of negative drug screens for visitation. All of the comparison courts stated that the illicit consumption of drugs does affect how they consider visitation, but they neglected to say how or responded that it was situational.

### ***Conclusion Regarding Hancock County's Risk Reduction Policies***

Hancock County Youth Court's current risk reduction policies (i.e., drug testing and investigations by court intake personnel) and a former policy (i. e., visitation) could have contributed to the number of children in DHS's custody in Hancock County.

A study issued by the Child Welfare Centers of America notes that "front-line workers" such as DFCS and "decision-makers" such as HCYC often face different demands within a community. The study notes that in the face of these differing demands, agents of the community affected often seek to simplify decisionmaking processes by focusing on issues specific to clients of the system in order to reduce overall ambiguity. Usually the issues that are focused upon are those that can be easily measured as opposed to those of an

incommensurable value. PEER believes that the issues raised in this study may be relevant to the child custody rate in Hancock County.

As previously noted, the illicit consumption of drugs is a problem within Hancock County. However, as the above-referenced study notes, HCYC and the Hancock County DFCS may be focusing on this one specific measurable issue of the illicit consumption of drugs due to the competing demands of their respective offices, when in fact other ambiguous operational factors, such as risk reduction policies, may be having a larger effect on custody rates than originally thought.

There is a broad spectrum of practice within Mississippi's youth courts regarding the use and overall costs of the risk reduction policies of drug testing and investigation by court intake personnel. The spectrum for risk reduction policies regarding drug testing includes the type of test administered, the frequency of the testing, and the cost burden of the test. All of the policies on the spectrum are within the statutory prerogative of the court. PEER is not speaking as to how often these policies should or should not be used, but rather to HCYC's position within the above-mentioned spectrum and the potential effect on children in custody.

The comparison courts all reported using no higher than a nine-panel test, leaving the cost burden to the local county DHS office, and determining frequency of testing on a case-by-case basis. In contrast, HCYC uses a laboratory-certified twelve-panel test conducted by a third-party contractor, places the cost burden of the test on the individual being tested, and tests the individual twice a month. Although all of HCYC's policies are within the legal purview of the court, PEER notes that HCYC follows a stricter, more expensive drug testing regimen than do the comparison courts. Therefore, HCYC falls on the high end of the spectrum regarding the use of stringent drug testing risk reduction policies, which may be contributing to the large number of children in DHS's custody in Hancock County because it may lengthen the period before children can be reunited with their parents.

Also, Hancock County's visitation policy, which has recently changed, could have contributed to the large number of children in DHS's custody in Hancock County.

PEER does not comment on whether these policies are effective or not effective in reducing the risk of child abuse or neglect because such conclusion should be based on independent research. However, PEER notes that Hancock County's policies differ from those of the comparison counties and that they could have contributed to the number of children in custody in Hancock County.

## Court Procedures

*In interviews with HCYC and DFCS, PEER was made aware of two areas of interaction between these entities that could be impacting the child protection system in Hancock County. These areas are misunderstandings about resource availability for DFCS workers waiting to attend court and case scheduling difficulties.*

PEER determined previously, during field work for PEER Committee Report #588 (*The Comparative Efficiency of Mississippi's Models of Youth Court Adjudication*, December 9, 2014), how much time DFCS staff in Hancock County and ten other youth courts dedicate to certain tasks. Hancock County's DFCS caseworkers reported spending eighty percent of their work hours on tasks related to adjudication and DFCS supervisors reported spending ninety percent. These estimates were the highest amounts of time spent in the adjudication phase by any DFCS caseworker or supervisor in the eleven counties PEER reviewed.

In calculating its workloads, DHS attributes the same amount of time to accomplish all work-related responsibilities for various tasks statewide. By this logic, it should take approximately the same amount of time to complete various job related tasks in all counties. However, as discussed above, there were differences in the amount of time Hancock County workers attributed to completion of all adjudication-related tasks compared to their counterparts in the comparison counties. While PEER was unable to determine the exact impact of court attendance on these estimates, it must be considered as a contributing factor.

While DFCS employees' work assignments and job performance do not fall under the purview of the HCYC, the court should be aware of areas of its operations and policies that could impact these areas. In interviews with HCYC and DFCS, PEER was made aware of two areas of interaction between these entities that could be impacting the child protection system in Hancock County.

These areas are misunderstandings about resource availability for DFCS workers waiting to attend court and case scheduling difficulties.

### ***Misunderstandings about Resource Availability***

In interviews with DFCS and HCYC staff, PEER noted differences in each group's understanding about what resources were available to DFCS staff while attending court or waiting for their case hearings. The court should seek to clarify any misunderstandings in regard to these differences and should work with DFCS staff to determine whether there are additional areas where resources could potentially be made available.

In interviews with DFCS and HCYC staff, PEER noted differences in each group's understanding about what resources were available to DFCS staff while attending court or waiting for their case hearings. These differences include, but are not limited to, the following areas:

- what DFCS workers are allowed to bring with them while attending court;
- where they are allowed to be while waiting to attend their case hearings; and,
- what HCYC resources are available for DFCS workers to use while waiting for their case hearings.

As stated above, DFCS employees' work assignments and job performance do not fall under the purview of the HCYC. However, misunderstandings in regard to the highlighted differences above could potentially be affecting the number of children in DHS's custody by exacerbating problems caused by heavy workloads (see page 37) by reducing the time available for DFCS caseworkers and supervisors to accomplish all necessary tasks, hurting performance and ultimately delaying the process and keeping children in custody longer.

The court should seek to clarify any misunderstandings in regard to these differences and should work with DFCS staff to determine whether there are additional areas where resources could potentially be made available.

### ***Case Scheduling***

PEER found that that despite case scheduling policies being in line with those of comparison counties, HCYC and DFCS staff acknowledged that due to the high volume of cases and the uncertainty regarding how long each individual case will take, DFCS staff often wait for lengthy periods before their specific cases are heard.

During the course of its fieldwork, PEER noted that one area of court policy that could potentially be influencing the number of children in DHS's custody was case scheduling.

In interviews with HCYC staff, PEER found that while the court's policy of setting specific times for each case was in line with the scheduling policies of the comparison counties, both HCYC and DFCS staff acknowledged that due to the volume of cases and uncertainty regarding how long each individual case

would take, DFCS staff often wait for lengthy periods before their specific cases are heard.

These potential delays could be affecting the number of children in custody by reducing the time available for DFCS caseworkers and supervisors to accomplish all necessary tasks, hurting performance and ultimately delaying the process and keeping children in custody longer.

The HCYC, in conjunction with DFCS, should look for alternate methods and creative solutions to address these scheduling issues.

## **Caseloads of Guardians ad Litem**

*Hancock County guardians ad litem have caseloads that far exceed recommended national standards.*

The Hancock County Youth Court employs two part-time guardians ad litem for judicial proceedings involving abused or neglected children. The guardians ad litem serve other youth court purposes as well. In addition to matters of abuse and neglect, the youth court has statutory authority to appoint guardians ad litem in several instances wherein the best interests of the child will be served by having such a person appointed to protect the child's interests. (See MISS. CODE ANN. Section 43-21-121 [1972].) Hancock County's guardians ad litem meet the statutory requirements for their positions.

As noted previously in this report, the American Bar Association outlines the standards of practice for guardians ad litem that require thorough, continuous independent investigation to participate in court, reduce case delays, counsel the child, develop a theory of strategy for the case, and identify appropriate resources for the child.

Although detailed review of the compliance of guardians ad litem with practice obligations was outside of the scope of this report, PEER observed practice issues involving Hancock County's guardians ad litem, as follows:

- Counseling a child concerning the legal proceedings is a basic practice obligation. One guardian ad litem in Hancock County reported that the guardian ad litem does not always have an opportunity to speak with clients prior to hearings.
- Reducing case delays is a basic practice obligation. One guardian ad litem in Hancock County does not file motions, but instead always requests hearings, which typically creates delays. This particular guardian ad litem routinely requests hearings because of alleged problems in the past with accuracy of information provided by DFCS (both guardians ad litem reported problems with accuracy of DFCS information in the past). This particular guardian ad litem uses hearings as a fact-finding exercise rather than conducting independent investigation into the case.

PEER believes that these practice issues result chiefly from the fact that Hancock County's guardians ad litem are severely overworked, with caseloads far exceeding standards. The National Association of Counsel for Children (NACC) recommends the following standards:

- a full time attorney should represent no more than one hundred individual clients as a guardian ad litem at any given time; and,
- a part-time attorney should represent no more than fifty individual clients as a guardian ad litem.

As of March 27, 2015, the approximate caseload for Hancock County was 175 cases for one guardian ad litem and 113 for the other. As noted previously, both of Hancock County's guardians ad litem are part-time.

These numbers include sibling groups under a single case; therefore, the number of individual clients represented by each guardian ad litem was actually higher than the approximate number of cases. On December 31, 2014, Hancock County had 459 children in custody. If the number of children in custody were divided evenly, then each part-time guardian ad litem would still have approximately two hundred and twenty-nine individual clients. This estimate is more than twice the NACC-recommended caseload for full-time guardians ad litem and more than four times the recommended caseload for part-time guardians ad litem.

Guardians ad litem in Hancock County have a significantly higher caseload than in other counties in the Mississippi. For example, in Adams County, one part-time guardian ad litem represents forty-six individual clients. In Clay County, one part-time guardian ad litem represents twenty-two individual clients.<sup>15</sup>

PEER believes that the large caseloads of the guardians ad litem in Hancock County inhibit their ability to fulfill basic obligations of practice. Hancock County guardians ad litem are being asked to handle a caseload far greater than the recommended standards. This could potentially be affecting the number of children in DHS's custody by creating tension between the guardians ad litem and other involved participants when differences of opinion arise or by necessitating delays in cases to allow for additional time to conduct their own investigations and formulate their own opinions as to the most appropriate course of action in a case.

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<sup>15</sup>This example uses guardian ad litem data collected during September 2014 and the number of children in custody provided by MDHS as of July 2014.

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## How have the internal forces described in this report contributed to the number of children in DHS's custody in Hancock County?

The ability of Hancock County's DFCS staff to carry out their functions consistently and professionally could have an impact on the court's willingness to trust the agency's guidance and recommendations in the child protection process. Likewise, certain atypical policies and procedures of the Hancock County Youth Court could also have an impact on the outcomes of the process. Together, the performance of both players can impact the decisions of judges to take or retain custody of children who go through the process when other alternatives might be available.

In this report, PEER has identified several internal forces within the Hancock County child protection process that could potentially affect either the number of children coming into the custody of DHS or the duration of time a child remains in the custody of DHS.

This chapter will address the following:

- Internal Factors: Hancock County DFCS;
- Internal Factors: Hancock County Youth Court; and,
- What impact do these conditions have on the working relationship between the Hancock County DFCS staff and the Hancock County Youth Court?

### Internal Factors: Hancock County DFCS

*Weaknesses cited in this report have affected Hancock County DFCS workers' ability to accomplish tasks essential to successful performance of their duties.*

As highlighted on pages 35 through 38, several conditions of Hancock County DFCS operation could be affecting the number of children in DHS's custody in Hancock County.

According to PEER analysis of various reports generated by DFCS for the *Olivia Y.* court monitoring process, DFCS's performance in Hancock County lags behind that of its offices in the rest of the state. For example:

- DFCS policy requires completion of all investigations of child maltreatment within thirty days. Court intake officers and other staff typically use these reports to help make informed decisions on how to proceed in a specific case. For the period of October 1, 2014, through December 31, 2014, Hancock County DFCS staff completed 47% of its investigations within the thirty-day timeframe (the state average was 73%).



- According to the DHS policy manual, the Comprehensive Family Assessment is essential in the effort to achieve desirable outcomes related to safety, permanency, and well-being of the children. For the period of July 1, 2014, through December 31, 2014, Hancock County DFCS completed 24% of these assessments within the required timeframe established by DHS policy (the state average was 53%).

The two performance metrics listed above are only two of the metrics PEER assessed during the course of its fieldwork. For information on other metrics, see Appendix D on page 77.

PEER notes that the current DFCS workforce in Hancock County has received the training mandated by DHS. While criticism has been voiced by some members of the youth court and the community regarding training of Hancock County DFCS workers, PEER notes that the training the Hancock County staff received is the same training provided statewide that has been in place since the *Olivia Y.* case. PEER notes that the *Olivia Y.* court monitor has not offered written criticism of the training program. Consequently, PEER has no basis to conclude that the mandated DHS training is a contributor to the internal weaknesses cited in this report.

Hancock County's DFCS staff is having problems accomplishing the tasks inherent in the successful completion of job responsibilities in a timely manner. These shortfalls could potentially be causing concerns on the part of the Hancock County Youth Court and could be leading the court to doubt the credibility of recommendations provided by DHS staff.

In light of these concerns, the youth court could have opted to pursue a stricter policy of bringing children into custody in hopes that by doing so there would be additional staff (e. g., guardians ad litem) responsible for the welfare of the allegedly abused/neglected children. This type of policy could lead to more children being brought into custody or children staying in DHS's custody longer.

## Internal Factors: Hancock County Youth Court

***Policies of the Hancock County Youth Court, while intended to protect children, have contributed to the number of children in DHS's custody and also contribute to friction between the court and the Department of Human Services staff.***

As highlighted on pages 38 through 49, several conditions of Hancock County Youth Court's operations could also be affecting the number of children in DHS's custody in Hancock County.

- The HCYC has in the past or is currently operating at the high end of the risk reduction spectrum regarding the use of risk reduction policies, which make it an outlier from the comparison courts PEER surveyed. These policies could be causing children to stay in custody longer.

- Misunderstandings of the acceptable/allowed uses of DFCS workers' time could potentially be reducing the time available for caseworkers and supervisors to accomplish their duties, thus hurting performance and ultimately delaying the process.
- Two part-time Hancock County guardians ad litem are being asked to handle caseloads far larger than what is recommended by the American Bar Association for full-time guardians ad litem. This could be causing delays in cases.

### **What impact do these conditions have on the working relationship between the Hancock County DFCS staff and the Hancock County Youth Court?**

*Weaknesses in the Hancock County DFCS staff's performance and Hancock County Youth Court's high position on the risk reduction policy spectrum have contributed to mistrust, lack of confidence, and friction between the two entities.*

As described in this report, the Hancock County Youth Court is on the high end of the spectrum regarding the use of risk reduction policies in areas such as directing investigations by court intake personnel and taking a strict position on drug tests that exceeds what other courts in the state do. From DFCS's perspective, this evidences a mistrust of the process that DFCS, by law, may direct: investigations and the development of service plans for families in need of services. Such mistrust can lead to problems in future relations between the DFCS workers and the court that might explain why the turnover rate for DFCS workers is very high, thus compounding professionalism problems that can impair the department's ability to perform its functions and develop an improved capacity to deliver services with skilled, experienced professionals.

A youth court must protect the children in its jurisdiction. If after reviewing the work of investigators and other professionals, the court believes that it is necessary to take custody of a child to protect that child from threats of abuse or neglect, the court must do so. Poor performance on the part of DFCS in the past that has been driven by high turnover, high caseloads, and problems with professionalism of staff could all contribute to legitimate doubts on the part of the court when considering the best interests of the child.

Community stakeholders have noted that studies conducted by the National Children's Advocacy Center have shown that the number of children in a community affected by maltreatment has a detrimental effect on the community as a whole, as well as on the children involved. The above studies have been cited by stakeholders to reinforce the use of risk reduction policies regarding the removal of children from the home in Hancock County. As mentioned before, PEER does not speak as to how often these risk reduction policies should or should not be

used, as this is left up to the discretion of each individual court. However, in addition to the studies mentioned above, proper consideration must also be given to several studies compiled by the National Coalition for Child Protection Reform, which show that curbing the maltreatment of children in a community is not necessarily best achieved by removing the child from the home and placing him or her in substitute care. Studies have shown that children in foster care often fare worse on many levels compared to comparably maltreated children who were allowed to stay in their homes. This study excludes the most severe cases of maltreatment in which foster care is the only viable option.

In conclusion, there appears to be a disconnect between the youth court and DFCS in Hancock County, with neither entity being blameless in the process, and there is also a distinguishable variance in the use of risk reduction policies by HCYC and the courts in comparison counties. PEER's recommendations attempt to address constructive steps that could be taken to alleviate some of these problems.

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## Recommendations

1. The staff of the Department of Human Services and the Hancock County Youth Court should meet quarterly to discuss candidly the problems cited in this report or any other problems that arise related to the administration of child protective services. Specifically, the staff of the two entities should engage in dialogue regarding what should be reasonable expectations for the DFCS social service workers, including performance, training, and preparation for court, plus any other related personnel matters the two entities consider relevant to the issue of staff performance.
  - The Youth Court should cite specific, remediable deficiencies that DFCS could reasonably address through the assignment of new or more seasoned staff and the improvement in supervision and worker preparation.
  - The DFCS staff should set out for the court any and all concerns it has related to the court's policies and procedures in such areas as investigations by court intake personnel, drug testing, court orders, as well as any other issues related to youth court operations that DHS considers to be pertinent to the effective implementation of a child-centered approach to abuse and neglect cases.

During these discussions, the Department of Human Services and the Hancock County Youth Court should seek the guidance and participation of the Mississippi Supreme Court's recently appointed Jurist in Residence. The Jurist in Residence is a highly experienced former youth court judge with experience in addressing the issues of court-DHS dynamics, program implementation, and development.

2. The Youth Court should explore possible revision of its drug testing policy by reducing the financial burden on persons who must be tested. Use of public funding or co-pays should be considered in lieu of requiring individuals to bear the cost of their own drug tests. Because the Hancock County Youth Court has the ultimate authority over court policy and procedure, HCYC should:
  - clarify and formally adopt its policy related to visitation;

- provide guidelines to the Hancock County DFCS regarding the spaces and resources that are available to DFCS staff while waiting to attend court sessions; and,
  - review the workload of guardians ad litem and recommend to the Hancock County Board of Supervisors what additional funding is needed to address bringing the workload of the guardians ad litem closer to nationally recommended standards.
3. Both the HCYC and the Hancock County DFCS should maintain records of any particular cases, policies, and practices involving the intake, investigation, adjudication, and disposition of youth court abuse and neglect cases and report such information to PEER when it conducts its six-month follow-up.



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# Technical Appendix: Analysis of External Factors Associated with Child Maltreatment in Hancock County

PEER interviewed stakeholders from Hancock County, performed a literature review, and analyzed data from multiple sources regarding risk factors for child abuse and neglect to identify potential causes for the high rate of child maltreatment in Hancock County. PEER found some statistical relationships between risk factors and child maltreatment but no causal relationships were established by the data.

Three factors identified by community stakeholders and the comprehensive literature review may contribute to an increased rate of child maltreatment in Hancock County. These factors are the illicit consumption of drugs, a transient population, and the number of children living in single parent households. Section 42 housing was associated with an increase in DHS's custody, but this increase could also be caused by population density. The geographic area with the largest number of children placed in DHS's custody had no Section 42 housing.

As noted on page 25 of this report, Hancock County has a high rate of child maltreatment. PEER used a combination of methods to try to identify potential external risk factors that might cause this high rate of child maltreatment.

## Interviews with Stakeholders

*Community stakeholders had identified unemployment, poverty, Section 42 housing, the illicit consumption of drugs, mental health issues, and a transient population as risk factors that could contribute to a high rate of child maltreatment in Hancock County.*

PEER interviewed community stakeholders from the Hancock County Youth Court, DHS, Hancock County Youth Court Task Force, law enforcement, school districts, and Gulf Coast Community Mental Health Center and reviewed all comments submitted to the task force submitted from January 1, 2015, to April 23, 2015.

From this process, PEER identified the following potential external risk factors:

- unemployment;
- poverty;
- Section 42 housing (see page 34 of the report);
- the illicit consumption of drugs;
- mental health issues; and,
- transient population.

Stakeholders often cited Hurricane Katrina and the BP oil spill as events that caused an increase in these issues in Hancock County. PEER reviewed relevant literature and conducted statistical analysis in order to evaluate the potential external causes identified by community stakeholders.

## Literature Review

***A review of the literature identified parent or caregiver factors, family factors, child factors, and environmental factors associated with an increased risk of child maltreatment.***

PEER conducted a comprehensive literature review to determine what causes child maltreatment. Although a single cause of child abuse or neglect has not been identified, certain risk factors are associated with child maltreatment, but no strong empirical support for a causal relationship exists between each factor and maltreatment.

Research has identified a range of risk factors associated with child abuse occurrence and potential. Risk factors can be grouped into four broad categories:

- parent or caregiver factors;
- family factors;
- child factors; and,
- environmental factors.

Parent or caregiver factors associated with child abuse and neglect include a parent's or caregiver's mental health, trauma history, ability to respond to stress, and parenting skills. Teenage parents or caregivers are associated with child maltreatment. A parent's or caregiver's illicit consumption of drugs is also highly associated with child maltreatment.

Family factors associated with child maltreatment include marital conflict and domestic violence and stressful conditions such as unemployment and financial difficulty. A family that moves frequently and does not have a strong support network is associated with maltreatment. Single-parent households are also associated with maltreatment.

Child factors associated with maltreatment include the age, health, and disability of children.

Environmental conditions associated with child maltreatment include poverty and economic conditions. Violent communities and neighborhoods are also associated with child maltreatment, as they may normalize violent behavior.



## Statistical Analysis

*PEER analyzed factors identified through interviews with stakeholders or literature review. These factors included education attainment, the illicit consumption of drugs, mental health issues, teenage pregnancy, population transience, single-parent households, poverty, and unemployment.*

Although statewide statistical data was not available for many of these risk factors, PEER obtained data from the following sources on parent or caregiver, family, and environmental risk factors:

- ACS data on educational attainment (2013);
- Mississippi Bureau of Narcotics case initiation statistics (2014);
- Mississippi Department of Mental Health data on the number of clients provided with mental health services (2015);
- Mississippi Department of Health vital statistics data on teenagers by county and race of the mother (2012);
- AFCARS data on children in custody with cases involving drug use by a parent or guardian (Federal Fiscal Year 2014);
- ACS data on residents that moved from a different county within the same state or from a different state (2013);
- ACS data on children living in single-parent households (2013);
- Mississippi Department of Education Smart Track survey data on drug use by public school students (2014-2015 school year);
- Mississippi Department of Mental Health data on the number of clients provided with substance abuse counseling (2015);
- ACS data on residents living in poverty (2013); and,
- ACS data on unemployment rates (2013).

PEER's literature review regarding risk factors associated with child maltreatment did not identify Section 42 housing as a potential external cause and statewide data on the location of child abuse and neglect was not readily available, so PEER did not conduct statewide analysis on this factor. (See page 57 of this Technical Appendix.)

PEER analyzed the most recent report of the National Child Abuse and Neglect Data System (NCANDS) to determine the number of reports of child maltreatment, the number of substantiated reports of maltreatment, and the number of custody removals from October 1, 2013, to September 30, 2014. These numbers were tested against the risk factors identified on page 59.

## Results of PEER Analysis

*PEER identified some statistical relationships between risk factors and maltreatment, but no causal relationships were established by the data. Three factors identified by community stakeholders and PEER's literature review that may contribute to the rate of child maltreatment in Hancock County are the illicit consumption of drugs, transience, and single-parent households. No relationship was found regarding educational attainment, mental health issues, teenage pregnancy, or unemployment and poverty.*

PEER used descriptive statistics to compare risk factors in Hancock County to other counties in the state using the state average and an interquartile mean (IQM). PEER calculated the state average by adding each county's risk factor data and then dividing that result by the total number of counties. The IQM is a statistical measure of the central tendency of a range of data. PEER ranked the values in each data set and then divided the data into four equal groups. The fourth quartile has data from lowest 75% to the maximum value in the group. This includes counties with the highest values associated with each risk factor. PEER summed the values of these ranges and then divided the result by the number of values in the range to generate the IQM.

The external risk factors that may increase the rate of child maltreatment in Hancock County are the illicit consumption of drugs, transience, and single-parent households. PEER also analyzed data regarding educational attainment, mental health issues, teenage pregnancy, unemployment, and poverty.

### Illicit Consumption of Drugs

PEER reviewed data from surveys, substance abuse treatment sources, and law enforcement to evaluate the level of the illicit consumption of drugs in Hancock County. Evaluating this measure is difficult because of the nature of the activity and limited data that is available on a county-by-county basis for Mississippi.

The Mississippi Department of Education administers the Mississippi SmartTrack Survey, an annual health behavior survey that tracks the illicit consumption of drugs by public school students in grades 6 through 11. PEER used this data to calculate an approximate percentage of students who reported illicitly consuming drugs at least once during the past thirty days.

PEER chose to use the data to report the minimum percentage of students illicitly consuming drugs in the past thirty days. As the information is reported in summary form, PEER was unable to compile a comprehensive list of unique children reported illicitly consuming drugs during the past thirty days, but only the minimum number of unique users.

As shown in Exhibit 10 on page 62, Hancock County students reported illicitly consuming drugs at a rate lower than the state average and the interquartile mean. This data set does not include information on parental illicit consumption of drugs and MDE does not administer the survey in every county. For the 2014-2015 school year, the survey was administered in sixty-two of the eighty-two counties in Mississippi.

**Hancock County has a smaller number of substance abuse clients per one thousand inhabitants than the state average and a number that is substantially lower than the IQM.** (See Exhibit 11, page 63.) This data could be skewed by the availability of services offered by DMH and by residents' use of private practitioners. With these qualifications, the number of individuals with substance abuse issues does not appear to be a risk factor associated with an increased rate of child maltreatment in Hancock County.

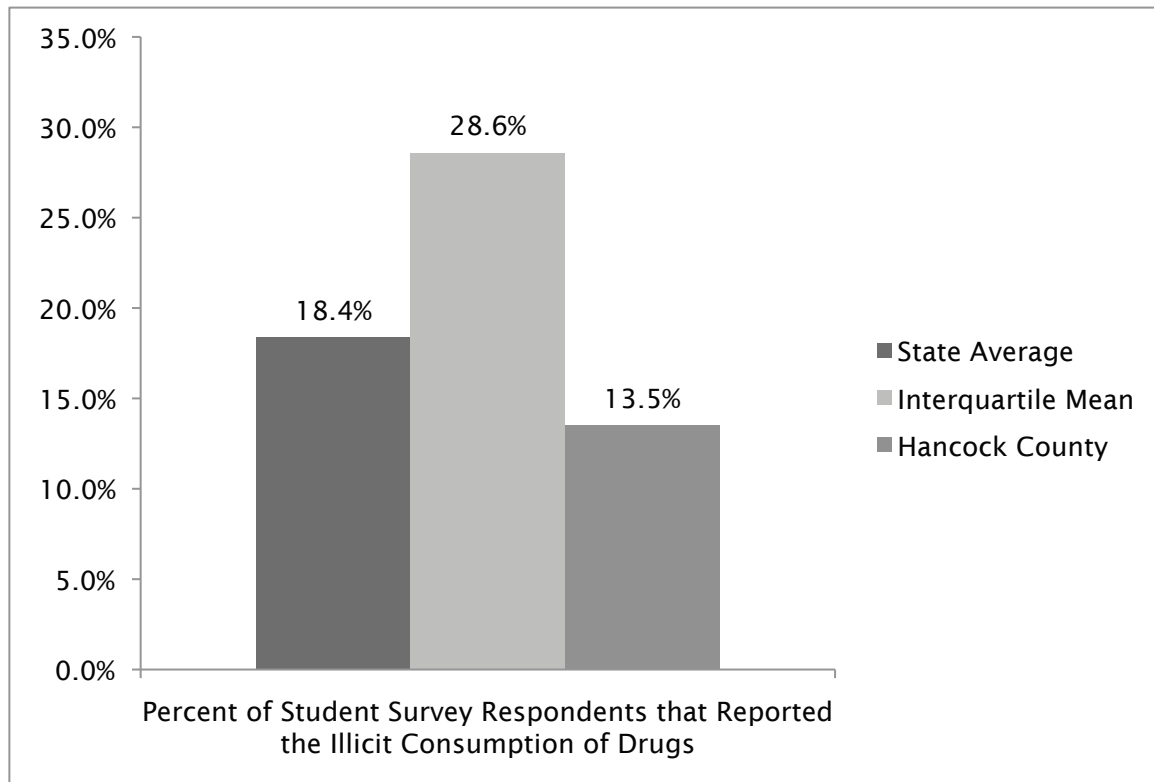
The Mississippi Bureau of Narcotics (MBN) compiles statewide data on drug enforcement. MBN initiates a case whenever it purchases drugs as part of an undercover investigation or seizes drugs as part of an enforcement action. This data set does not include enforcement action by local law enforcement and is heavily dependent on MBN enforcement in a particular region.

PEER calculated the number of cases per one thousand inhabitants by dividing the number of MBN cases by each county's population and multiplying the result by one thousand. Exhibit 12 on page 64 compares the number of cases per one thousand inhabitants to the state average and the IQM.

**Hancock County has more MBN cases per one thousand inhabitants than the state average and fewer cases than the IQM. This analysis indicates that drug abuse may contribute the rate of child maltreatment in Hancock County;** however, the value of the observation is limited by potential problems associated with this data set.

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**Exhibit 10: Percent of Public School Student Respondents that Reported the Illicit Consumption of Drugs in the Past Thirty Days in the 2014-2015 SmartTrack Survey**



SOURCE: MDE SmartTrack Survey from 2014-2015.

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There is no one perfect source for determining the impact of the illicit consumption of drugs on custody numbers in Hancock County. However, in interviews with community stakeholders and other members of the child custody system, the illicit consumption of drugs is purported to be the single largest factor affecting the number of children in custody in Hancock County.

HCYC reports that of the number of children in custody as of February 4, 2015, 74% had cases involving substance abuse issues of a parent or guardian and that this fact is indicative of the illicit consumption of drugs being a larger problem in Hancock County than other areas of the state.<sup>16</sup>

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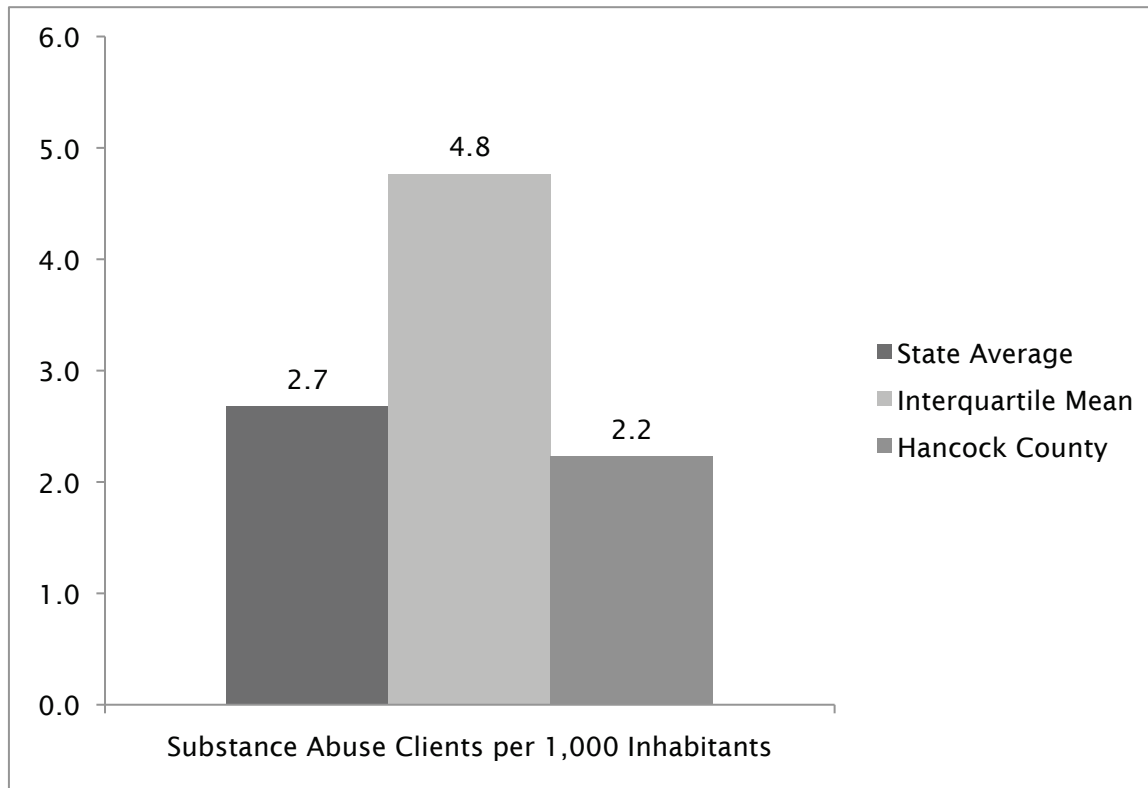
<sup>16</sup>HCYC calculated these figures by reviewing the cases of all children in the custody of Hancock County DHS as of February 4, 2015. HCYC staff looked at documents from each of these cases and counted children who were removed in part for a substance abuse issue of the parent or guardian that was being addressed by HCYC and DHS via court orders and/or service agreements.

PEER believes that this method is not an accurate measure of the impact of the illicit consumption of drugs in the county because it only compares results for the number of children in custody. These statistics do not account for the results of drug testing in cases that are receiving other foster care services such as protection and prevention cases and only look at cases from a point in time.

To address the use of a point-in-time comparison, PEER reviewed DHS AFCARS data from the period October 1, 2013, to September 30, 2014. In doing so, PEER found that Hancock County's numbers of children in custody with cases involving substance abuse issues of a parent or guardian dropped to approximately 43%, much closer to the state average of 27%.

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**Exhibit 11: DMH Substance Abuse Clients per 1,000 Inhabitants as of February 2015**



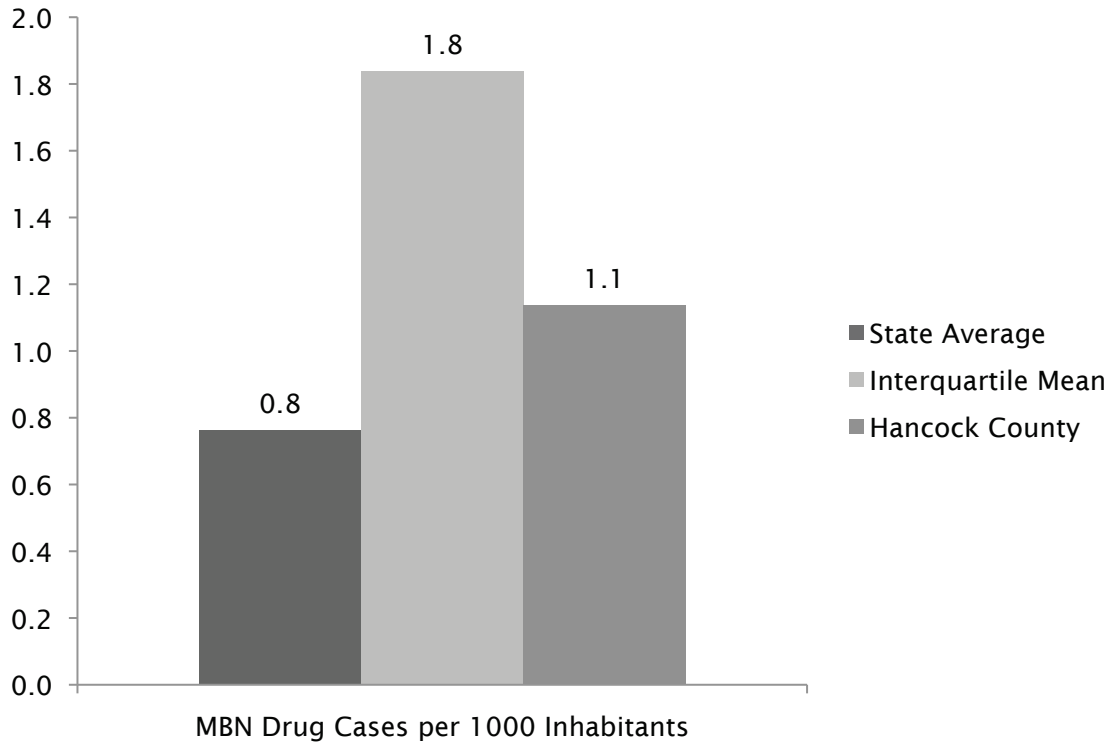
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SOURCE: PEER analysis of DMH data as of February 2015 and ACS population data from 2013.

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## Exhibit 12: MBN Cases per 1,000 Inhabitants for FY 2014



SOURCE: PEER analysis of Mississippi Bureau of Narcotics Case Initiation Statistics for 2014 and ACS population data from 2013.

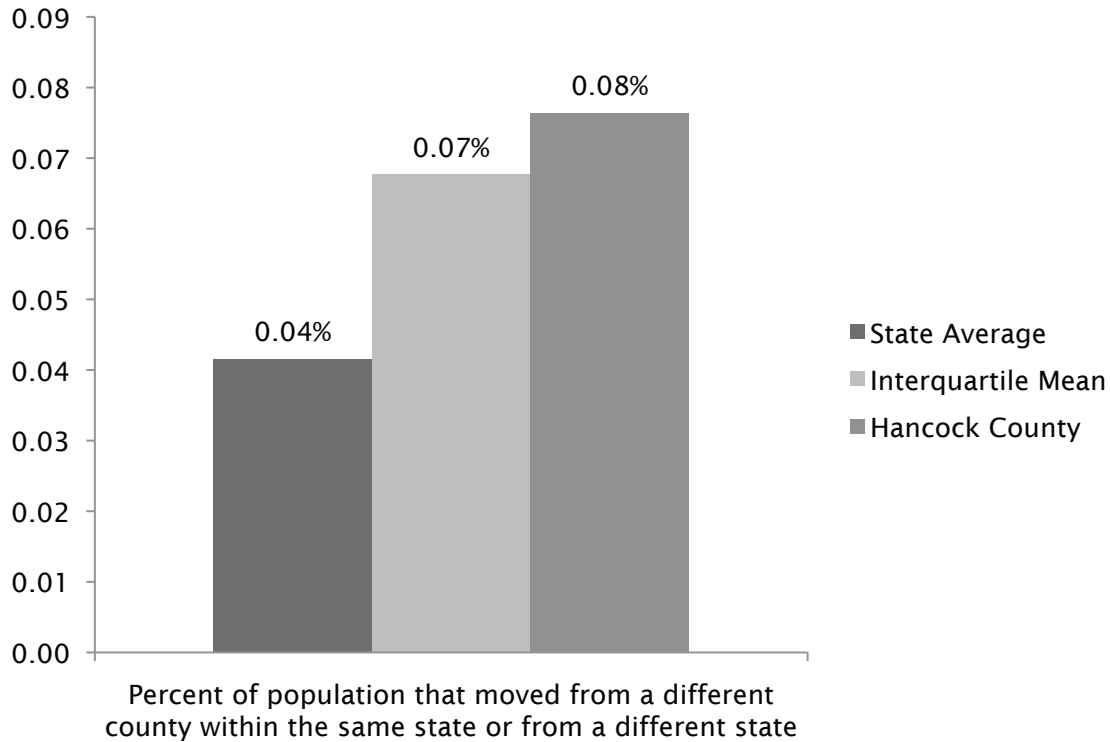
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## Transience

The ACS collects data on the percent of the population that moved from a different state or another county in the same state. Exhibit 13 on page 65 compares the transient population in Hancock County to the state average and the IQM.

**Hancock County has a higher percent of its population that moved in from a different state or a different county within the same state. Hancock County is slightly above the IQM and is not an extreme outlier in this category, but this analysis indicates that the transient population may contribute to the rate of maltreatment in Hancock County.**

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**Exhibit 13: Percent of Population that Moved from a Different State or Another County in the Same State**

SOURCE: PEER analysis of ACS data from 2013.

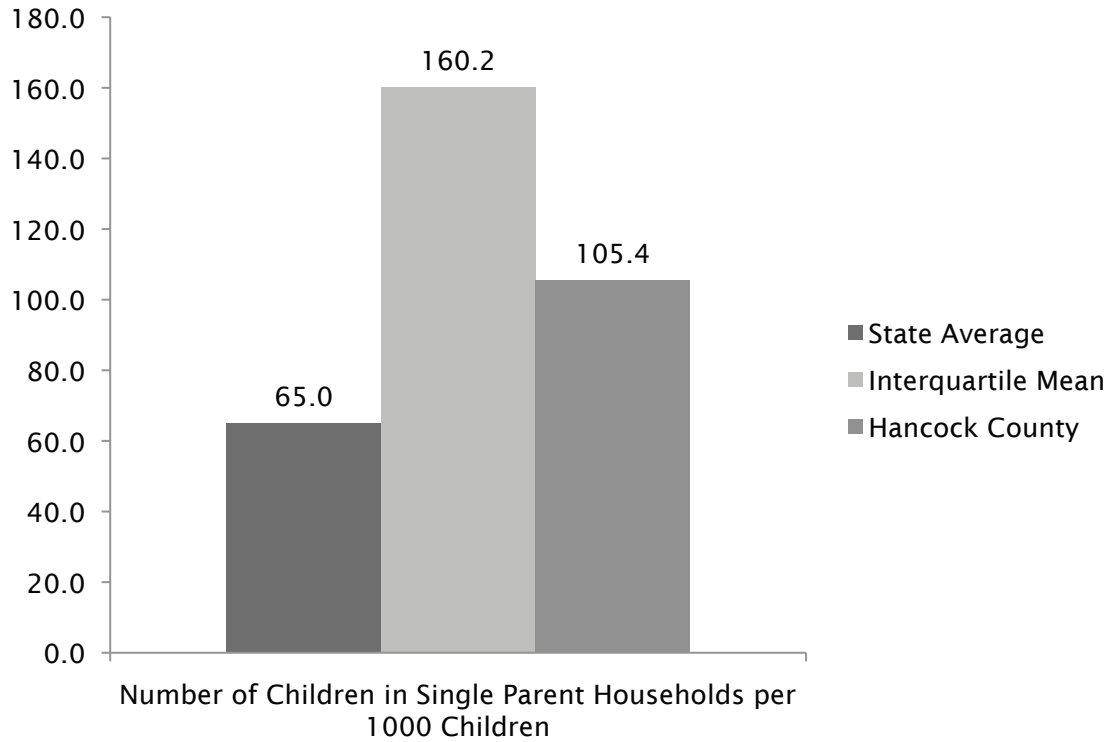
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### Single-Parent Households

PEER calculated the rate of children in single-parent households by dividing the total of number of children by the number of children in single-parent households and multiplying the result by one thousand. Exhibit 14 on page 66 compares the number of children in single-parent households per one thousand children in Hancock County to the state average and the IQM.

**Hancock County has more children in single-parent households than the state average and fewer children in single-parent households than the IQM. This factor may contribute to the rate of child maltreatment in Hancock County.**

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**Exhibit 14: Children in Single-Parent Households per 1,000 Children**

SOURCE: PEER analysis of ACS from 2013.

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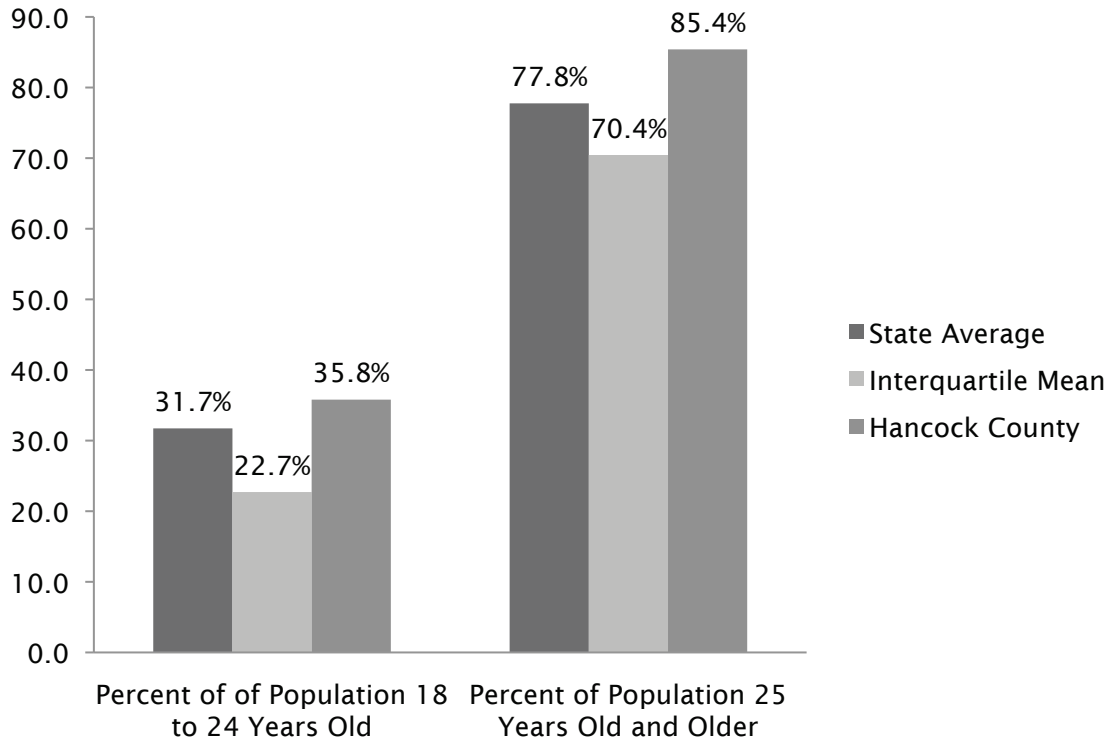
### **Educational Attainment**

**Hancock County has higher educational attainment than the state average.** Exhibit 15 on page 67 compares the percent of the population that has graduated from high school or obtained an equivalent degree to the state average and the IQM.

**This analysis indicates that educational attainment in Hancock County may not contribute to the rate of maltreatment in Hancock County.**



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**Exhibit 15: Percent of Population that has Graduated from High School or Obtained an Equivalent Degree**

SOURCE: PEER analysis of ACS data from 2013.

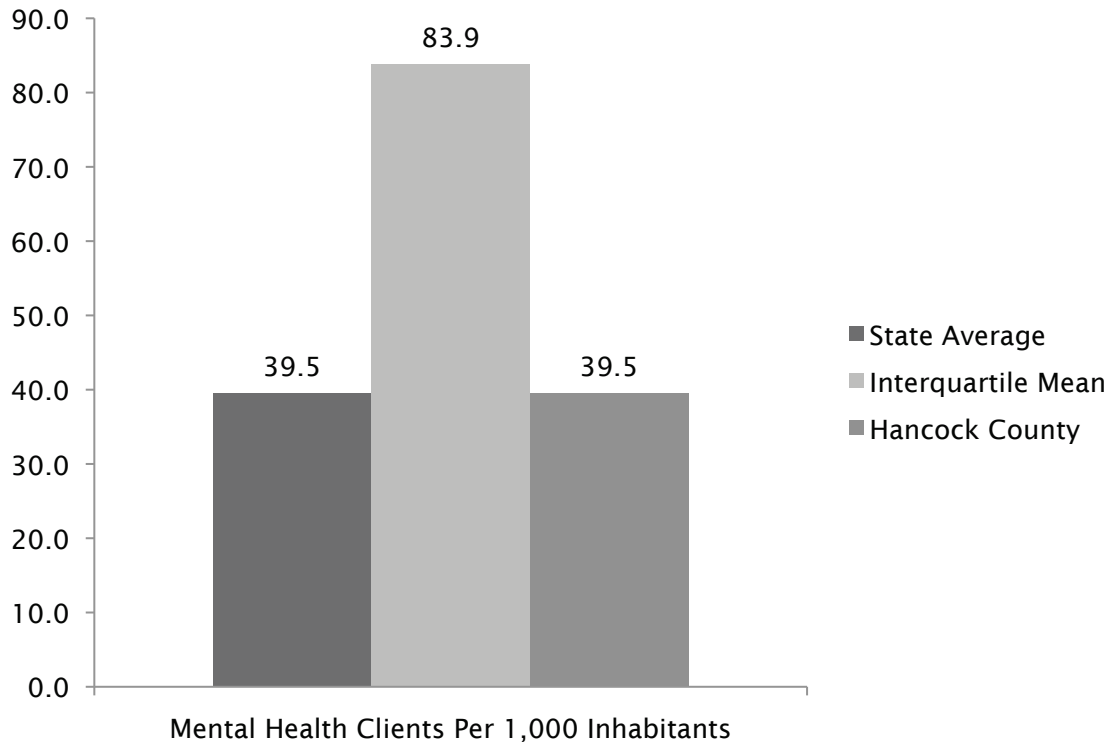
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### **Mental Health Issues**

PEER calculated the number of mental health clients provided by DMH or its affiliates by dividing the number of clients by each county's population and multiplying the result by one thousand. This data set includes clients served by regional mental retardation centers, state psychiatric hospitals, and regional community mental health centers, but does not include data on the number of clients seeking counseling in the private sector. Exhibit 16 on page 68 compares the number of cases per one thousand inhabitants to the state average and the IQM.

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**Exhibit 16: DMH Mental Health Clients per 1,000 Inhabitants as of February 2015**



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SOURCE: PEER analysis of DMH Data as of February 2015 and ACS population data from 2013.

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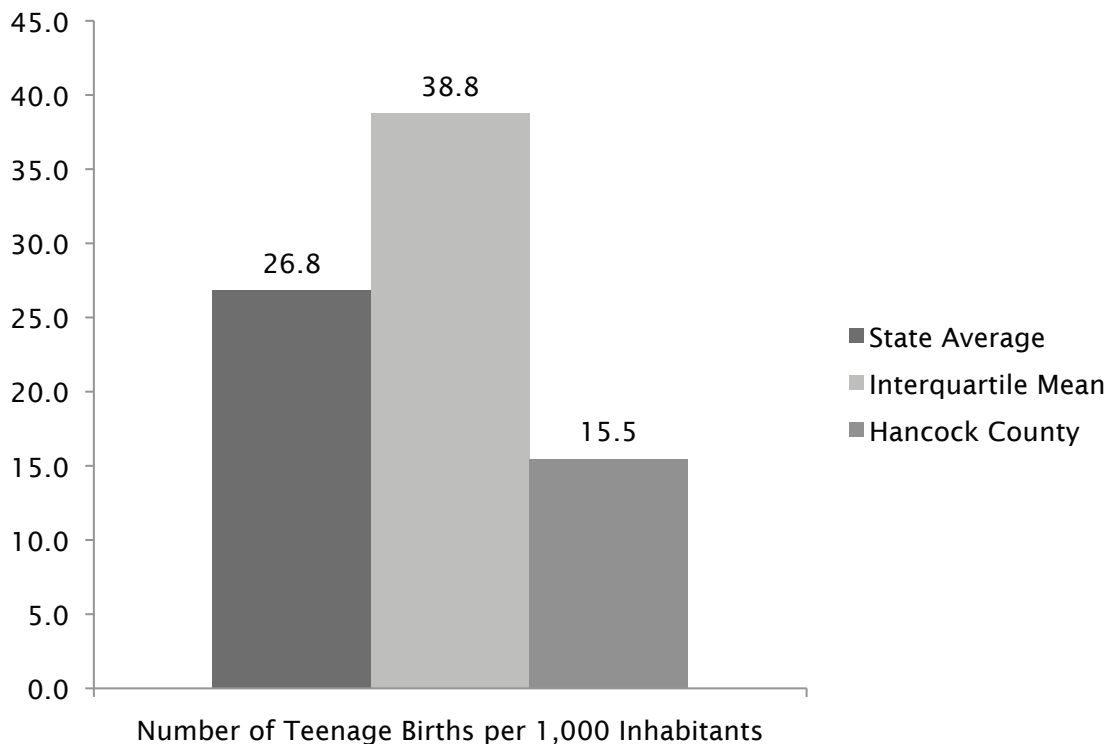
**Hancock County has the same number of mental health clients per one thousand inhabitants as the state average and is substantially lower than the IQM. This data could be skewed by the availability of services offered by DMH and by residents' use of private practitioners. With these qualifications, mental health does not appear to be a risk factor associated with an increased rate of child maltreatment in Hancock County.**

### **Teenage Pregnancy**

PEER calculated the rate of teenage pregnancy by dividing the number of teen births by the number of females ages ten to fifteen and multiplying the result by one thousand. Exhibit 17 on page 69 compares the number of births per one thousand teenage female inhabitants to the state average and the IQM.

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## Exhibit 17: Births Per 1,000 Teenage Female Inhabitants



SOURCE: PEER analysis of Mississippi Department of Health's Vital Statistics Data on Teenagers by County and Race of the Mother from FY 2012.

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**Hancock County has a lower rate of teenage pregnancy than the state average and the IQM. This statistic indicates that teenage pregnancy might not contribute to the rate of child abuse and neglect in Hancock County.**

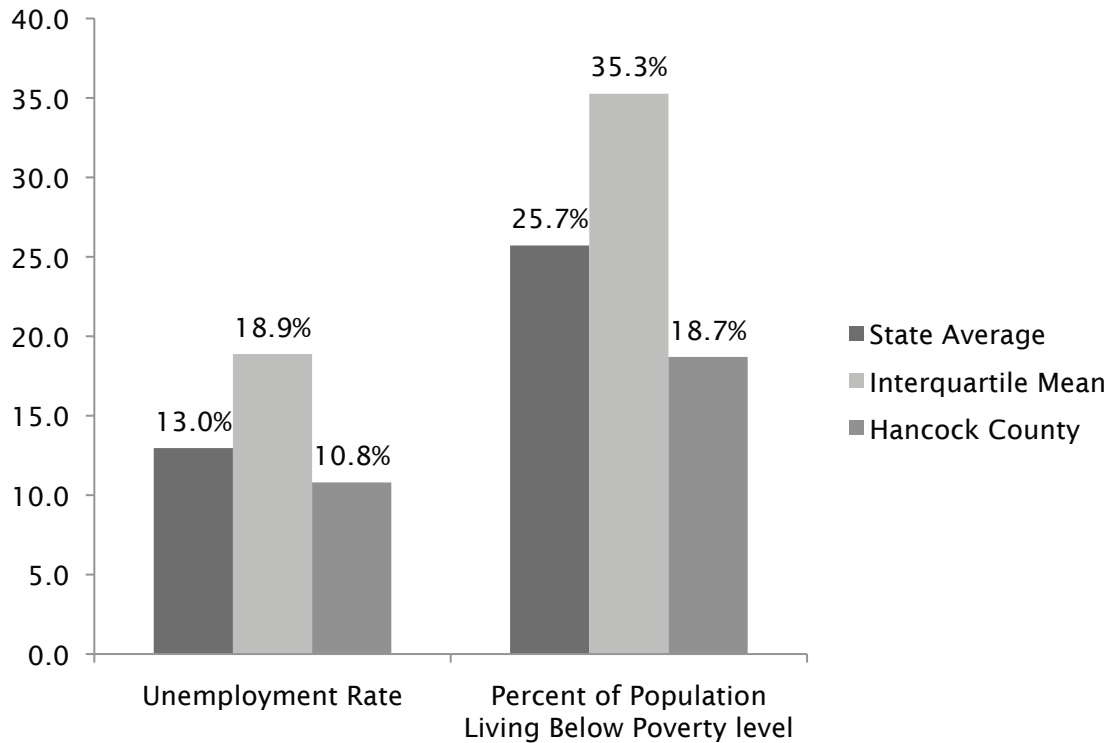
### Unemployment and Poverty

The ACS contains data on the percentage of population that is unemployed and the percentage of the population living below the poverty line. Exhibit 18 on page 70 compares the unemployment rate and poverty rate in Hancock County to the state average and the IQM.

**Hancock County has less unemployment than the state average and the IQM. Hancock County has less poverty than the state average and the IQM. This analysis indicates that unemployment and poverty may not contribute to an increased rate of child maltreatment in Hancock County.**

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**Exhibit 18: Percentage of Population Unemployed and the Percentage of the Population Living below Poverty**



SOURCE: PEER analysis of ACS from 2013.

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**Thus three factors identified by community stakeholders and the comprehensive literature review may contribute to an increased rate of child maltreatment in Hancock County. These factors include the illicit consumption of drugs, a transient population, and children living in single-parent households.** Target programs aimed at these risk factors could help to reduce the rate of child maltreatment in Hancock County.

## Geographic Analysis

*Section 42 housing was associated with an increase in DHS's custody, but this increase could also be caused by population density. The geographic area with the largest number of children placed in DHS's custody had no Section 42 housing.*

PEER used geographic analysis to determine whether Section 42 housing in Hancock County is associated with an increased rate of DHS's custody. Geographic information was not readily available on reports of child maltreatment. The following data was analyzed:

- the addresses of households from which children were placed in DHS's custody in Hancock County for all children in custody as of December 31, 2014, provided by DHS;
- the addresses of Section 42 developments in Hancock County as of February 2015 provided by Mississippi Home Corporation's list of active tax credit developments; and,
- demographic information association with census block groups<sup>17</sup> collected in 2010 provided by the United States Census Bureau.

Geographic proximity to Section 42 housing was associated with an increase in DHS's custody, but Section 42 housing in Hancock County is located in the urbanized areas of the county. Of course, urban areas have more individuals living in an area than more rural parts of the county, so the increase in custody associated with Section 42 housing may be caused by population density. The geographic area with the largest number of custody removals in Hancock County has no Section 42 housing.

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<sup>17</sup>A census block group is the smallest geographical unity for which the United States Census Bureau publishes sample data. Census block groups generally contain between six hundred and three thousand people.

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## Appendix A: Projected Number of Termination of Parental Rights Cases in Hancock County

PEER used *linear regression*, a mathematical technique for finding a straight line that best fits the relationships between two sets of data, to measure the effect of the number of children in DHS's custody on the number of termination of parental rights (TPR) cases. If a best-fit line is found, it could be used to predict the number of TPR cases expected by the number of children in DHS's custody.

For this analysis, PEER used statewide statistical data on the number of children in DHS's custody as of December 31, 2014, and the number of TPR cases as of January 31, 2015.

Exhibit 19 on page 73 represents this data with a scatter plot and a best-fit line.<sup>18</sup> Hancock County's location on the chart is also labeled.

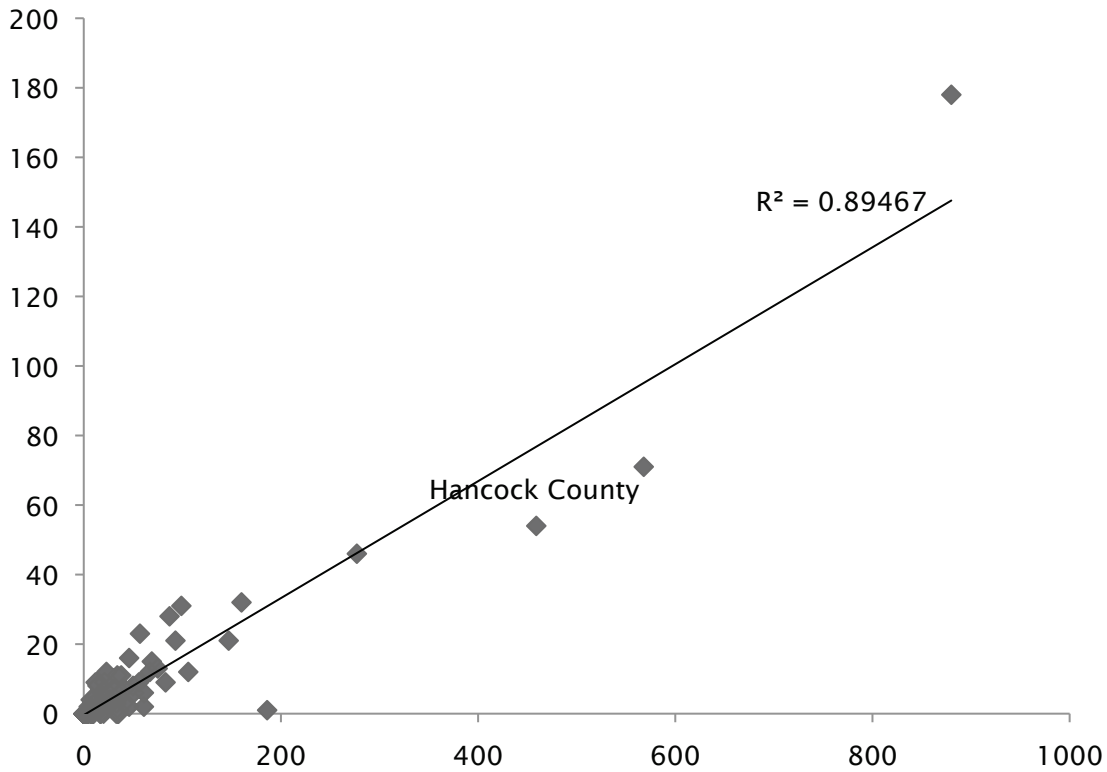
Regression analysis of the number of children in DHS's custody projected that Hancock County should have seventy-seven TPR cases, twenty-three cases more than the current number. Hancock County actually had a lower number of TPR cases than PEER would have projected, based on total number of children in custody. PEER has concluded that Hancock County does not have an institutional preference for termination of parental rights over reunification of families.

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<sup>18</sup>Linear regression uses a technique called the Pearson Coefficient to measure the quality of best-fit lines. A Pearson Coefficient above 0.85 is generally considered statistically significant for predicting expected outcomes. The Pearson Coefficient for custody and TPR is 0.89.

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**Exhibit 19: Scatter Plot Showing the Statistical Relationship Between the Number of Children in State Custody as of December 31, 2014, and the Number of Termination of Parental Rights Cases as of January 31, 2015**



SOURCE: PEER analysis of Overdue TPR packets identified by DHS Foster Care Review, Permanency unit TPR tracking system, AGO Court Docket, and DHS Report SZ0510: Number of Children in Foster Care by Placement Type.

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## Appendix B: Selected Demographic Data for Comparison Counties

In the process of this review, PEER compiled demographic data on Hancock County and the eight-county comparison group. Exhibit 20 on page 75 shows selected statistics for Hancock County and the comparison counties.

Information included within Exhibit 20 is the result of PEER analysis of the following sources:

- American Community Survey (ACS) Data--2013;
- Department of Human Services Custody Report as of December 31, 2014;
- Mississippi Bureau of Narcotics Case Initiation--2014;
- Department of Mental Health Client Data as of February 2015;
- Department of Health Vital Statistics Data on Teenagers by County and Race of the Mother--Fiscal Year 2012;
- Adoption and Foster Care Analysis and Reporting System (AFCARS) Data--Fiscal Year 2014;
- Mississippi Department of Education SmartTrack Survey 2014-2015;
- National Child Abuse and Neglect Data System (NCANDS)--Fiscal Year 2014; and,
- Department of Human Services Protection and Prevention Service Data--Fiscal Year 2014.



**Exhibit 20: Selected Demographic and Performance Statistics for Hancock County and the Comparison Counties**

Demographics/Metrics	Adams	Clay	Hancock	Lafayette	Lowndes	Oktribbeha	Pike	Stone	Washington	State Average
Population (in thousands)	32.3	20.6	43.9	47.4	59.8	47.7	40.4	17.8	51.1	36.2
Children in custody (per 1,000 inhabitants)	1.1	1.0	10.4	0.7	0.9	0.6	0.5	5.6	1.3	1.2
MBN cases (per 1,000 inhabitants)	0.3	2.6	1.1	0.7	0.5	0.3	0.7	0.3	0.1	0.8
Substance abuse clients (per 1,000 inhabitants)	2.4	3.4	2.2	2.7	5.2	2.3	1.6	2.0	2.2	2.7
Children in single-parent homes (per 1,000 children)	27.2	128.	105.4	74.8	32.1	18.2	70.4	21.6	6.4	65.0
Teenage birth rates (per 1,000 females)	26.3	23.7	15.5	11.8	21.0	10.8	33.6	18.0	37.9	26.8
Substantiated reports (per 1,000 inhabitants)	2.9	2.0	7.1	2.7	1.7	2.0	7.1	3.2	5.8	3.0
Unemployment (as a percentage of total population)	11%	20%	11%	10%	15%	14%	10%	13%	21%	13%
Individuals below the poverty line (as a percentage of total population)	28%	26%	19%	26%	25%	34%	28%	18%	37%	26%
Percentage of children in custody with drug involvement (as a percentage of total children in custody)	23%	31%	43%	76%	10%	26%	26%	49%	8%	27%
Children in DHS custody with drug involvement (per 1,000 inhabitants)	0.6	0.5	6.2	0.8	0.2	0.3	0.2	4.3	0.2	0.6
High school students illicitly consuming drugs (as a percentage of total surveyed)	N/D	5%	14%	21%	16%	N/D	15%	N/D	12%	18%
Children receiving foster care services (as a total of substantiated reports)	13%	15%	40%	10%	13%	14%	7%	37%	9%	12%
Children receiving protection services (as a total of substantiated reports)	7%	8%	9%	5%	2%	3%	9%	6%	3%	6%
Children receiving prevention services (as a total of substantiated reports)	3%	4%	8%	1%	2%	10%	0%	3%	17%	3%

MBN=Mississippi Bureau of Narcotics; DHS=Mississippi Department of Human Services; N/D=No data available.

SOURCE: See page 74 for a list of sources for this information.

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## Appendix C: What is the *Olivia Y.* Modified Service Agreement?

The *Olivia Y.* lawsuit<sup>19</sup> was brought against the Governor of Mississippi, the Executive Director of DHS, and the Director of the Division of Family Services in March 2004 and alleged that the Mississippi's foster care system failed to adequately protect children in custody and provide necessary services in violation of their federal constitutional rights. In 2008, the state of Mississippi settled the lawsuit by entering into a court monitored settlement agreement to reform the foster care system. In July 2012, the court approved the Modified Mississippi Settlement Agreement and Reform Plan (MSA), which outlines required improvements to the foster care system.

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<sup>19</sup>*Olivia Y., et al. v. Barbour, et al.* (Civil Action Number 3:04CV251LN). Court documents are publicly available on the Mississippi Department of Human Services' website.

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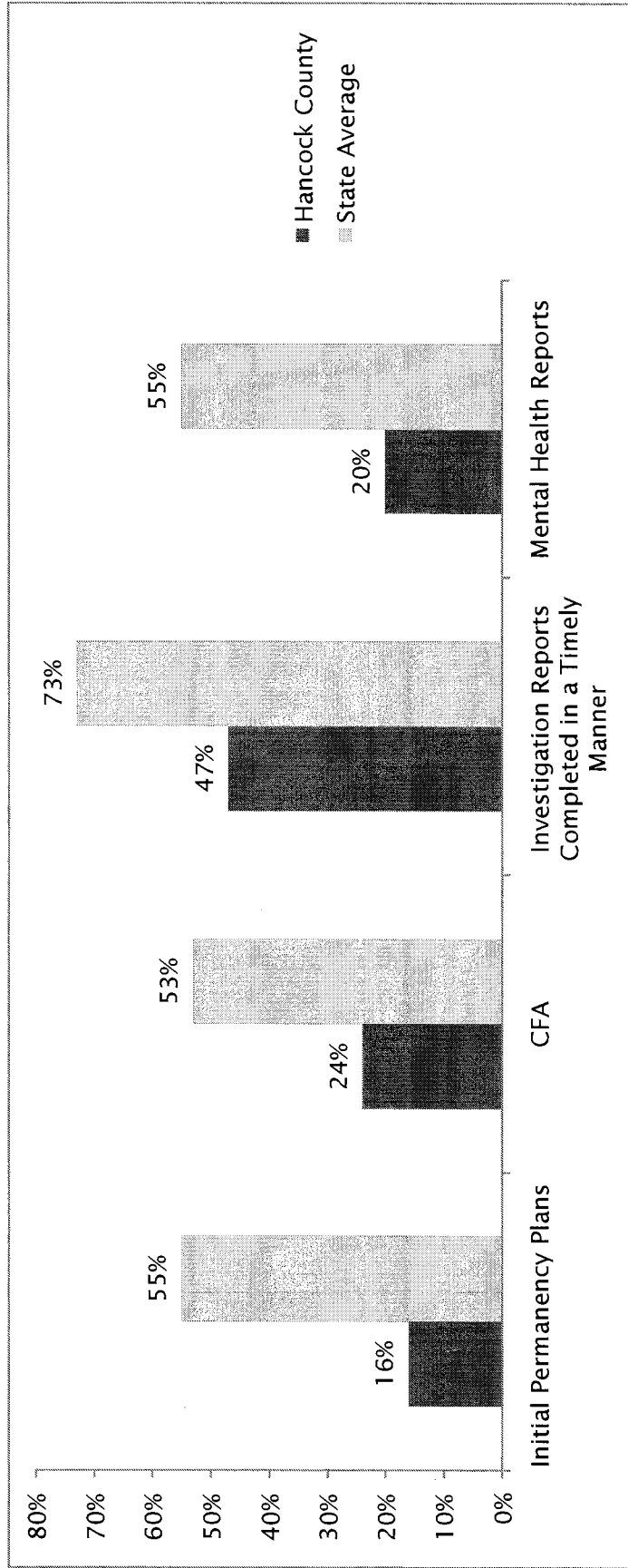
## Appendix D: Performance Metrics for the Hancock County DFCS and Other County DFCS Offices, 2014

PEER analyzed data from *Olivia Y.* monitoring reports regarding the performance of DFCS staff in Hancock County and other counties of the state.

PEER analyzed and compared data from the following processes of child abuse and neglect cases: permanency plans, comprehensive family assessments (CFAs), investigation reports, and mental health assessments. This data had been compiled over either three-month or six-month periods in 2014 in compliance with the *Olivia Y.* settlement. Exhibit 21, page 78, presents the percentages of these aforementioned processes that were completed in a timely manner and compares the state average with that of Hancock County.

The state average for each process was determined by adding the total number of timely completions of each process in each county in Mississippi and dividing this number of timely completions by the net total number of each process initiated by each county, regardless of whether the process was completed in a timely manner. This same process was carried out for each process in Hancock County.

**Exhibit 21: DFCS Performance Metrics, Comparison of Hancock County to Other Mississippi Counties, 2014**



CFA=Comprehensive Family Assessment

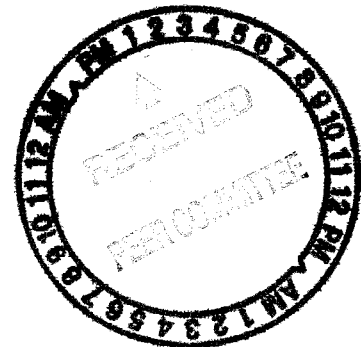
SOURCE: PEER analysis of data from *Olivia Y.* monitoring reports.



**STATE OF MISSISSIPPI**  
Phil Bryant, Governor  
**DEPARTMENT OF HUMAN SERVICES**  
Richard A. Berry, Executive Director

July 7, 2015

Mr. James Barber, Executive Director  
Performance Evaluation and Expenditure Review Committee  
Post Office Box 1204  
Jackson, Mississippi 39215-1204



Mr. Barber,

The Mississippi Department of Human Services (MDHS) acknowledges receipt of the Performance Evaluation and Expenditure Review (PEER) report entitled *Issues Related to the Increase in the Number of Children in the Department of Human Services' Custody in Hancock County*. The PEER review's focus in the area of the Division of Family and Children Services has also been a primary area being addressed by my administration at the beginning of my appointment to the position of Executive Director in January 2012. Therefore, MDHS has reviewed the final PEER report and recognizes there are opportunities to further enhance the many steps being implemented by the agency.

Steps taken by MDHS to ensure Family and Children Services in Mississippi are provided at an optimum level include:

**Technology**

Upgrades to terminals to support field operations were completed in 2014. Continued upgrades to MACWIS enhance daily operations until a new Child Welfare System can be procured. The agency currently has a Q&A vendor hired to support the management of the procurement.

### **Single Regional Director**

The agency realigned Region 7W, Hancock and Harrison Counties, into two separate Regions. Each county now has its own Regional Director dedicated to each individual county. This move has created a better lead workforce and a more responsive team to the court, community, and county leadership.

### **Full Time Special Attorney General**

The agency has assigned a full time Special Attorney General to Hancock County in an effort to support staff throughout the Child Welfare process. This attorney assists in all facets of Child Welfare including but not limited to preparation for court, staffing cases with workers and supervisors and working closely with the court.

### **Full Time Staffing Increases**

During the time period established in this report the agency increased total workers in Hancock County from 21 to 63. This dramatic increase has greatly improved the capacity of staff to ensure the safety of children in Hancock County. This increase also is a direct result of a 35% pay increase to recruit and maintain Social Workers, direct “hands on” involvement from executive leadership, the unmatched continued support from county leadership, especially the Board of Supervisors, and a continued commitment to take care of children and families from the DHS FCS staff.

### **Contract Staff**

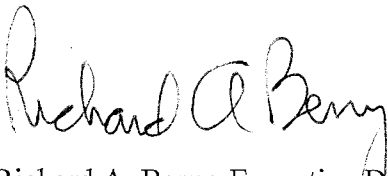
The agency has hired contract staff to assist workers and supervisors throughout the Child Welfare process. Contractors are dedicated to working one on one with staff and supervisors to enhance skill sets and create a better workforce to support the children and families of Hancock County. This one on one mentorship has greatly enhanced the Hancock County workforce.

### **Summary**

There have been many positive improvements to Hancock County over the past few years. An increase in staff, more and better training for staff, greatly improved working facilities, and a continued positive attitude by workers has created a workforce with a positive attitude and an attitude of children and families first, period!

On behalf of MDHS, I would like to thank your staff associated with the review for their professionalism and willingness to work with the MDHS staff. Again, MDHS is committed to finding opportunities to more effectively and efficiently serve the citizens of the State of Mississippi.

Sincerely,

A handwritten signature in black ink that reads "Richard A. Berry". The signature is written in a cursive, flowing style.

Richard A. Berry, Executive Director  
Mississippi Department of Human Services



OFFICE OF THE CHANCELLOR  
STATE OF MISSISSIPPI  
EIGHTH CHANCERY COURT DISTRICT  
HARRISON, HANCOCK AND STONE COUNTIES

July 8, 2015

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Ted Booth, Esq.  
PEER General Counsel

VIA EMAIL ONLY  
[ted.booth@peer.ms.gov](mailto:ted.booth@peer.ms.gov)

RE: Hancock County Task Force - Final Draft of PEER Report

Dear Mr. Booth:

I greatly appreciate you, your staff, and the PEER Committee for your efforts to solve the problem of why there are so many children in DHS protective custody in Hancock County.

As you know, I have been working on the same question with DHS, the Mississippi Supreme Court and many other state officials for years. I disagree with the PEER report as to whether those children should be in protective custody and why. I am strongly convinced that the Hancock County children in DHS custody are there because they need to be in protective custody.

Both the Youth Court and DHS are trying to deal with the problem in a positive way. Much of Hancock County has very low land elevation which was devastated by Hurricane Katrina, and so the inhabitants were physically, mentally and emotionally devastated, then by the BP oil spill, and by the inability to rebuild due to the poor economy and unavailability of insurance at an affordable rate.

If one examines the growth in the number of children in DHS protective custody, one sees the rapid rise beginning about 3 years after the hurricane. The court policies, procedures and key personnel had remained constant for many years including throughout the rapid growth period. Likewise, DHS policies and procedures did not change during the rapid growth period. In the last few years DHS has changed and increased staff, but the policy remains unchanged. What changed were not the internal factors (i.e. the court and DHS). What did change were the external factors. Your report analysis of these facts frankly reached the wrong conclusion.

Both DHS and the court, in a few short years, have had to transform their presence in Hancock County from that of a small, rural county to that of the largest metropolitan counties of the state. There are many growing pains for each entity and more than enough finger pointing, but through it all we have been working in close cooperation to meet the challenges. Your report suggests otherwise.



Your report takes issues with youth court policy in several areas with which I disagree. First, the matter of illicit drugs. There is an extraordinary amount of crystal meth produced and consumed in the county which is the most prevalent drug showing up in drug screens ordered by the court. There is also considerable heroin and cocaine which is easily obtained in New Orleans, a short drive away. All of these drugs are highly addictive and its dependency is extremely difficult, if not impossible, for most addicts to reverse. Our youth court's policy is to separate the children from the addicts until the addicts have had 2 consecutive clean drug screens.

When there is evidence of drug use the youth court insists on drug screens by a certified laboratory including one hair follicle. The commonly used urinalysis screens are often manipulated to create a false negative. Unfortunately, the cost of these tests falls on the drug users because no one else is currently willing to pay for the tests. DHS pays for the tests in most of the comparison counties utilized in your report, but not in Hancock County. In two of your comparison counties, the state drug court fund pays the cost. We have applied for a drug court and our referee has been in training. We are currently hiring staff for the drug court and final approval and funding is expected later this week. When or if we will receive funds for drug testing is another milestone to cross.

Your report questions the wisdom of the more aggressive stance on drug testing in Hancock County, but our records show 81% of those being tested are positive. The Hancock County Youth Court also tests the toddlers and infants of some of the drug addicts and find that these children have up to 10 times the level of drugs in their systems as do their addicted parents.

But for the court's diligence and extra cost of the drug testing of those infants and toddlers proving the children to be highly addicted, they would go undetected until they die a painful death or end up in a mental hospital as permanently disabled wards of the state. We believe the testing is serving the public well and saving the state millions in health and custodial care costs by discovering the drugs in the children and getting them into rehabilitation immediately.

PEER staff questions the wisdom of the court's use of NCIC reports to ensure that children are not inadvertently placed with inappropriate custodians. The reports are quick and easy to obtain and cost free. The NCIC report check is a helpful tool to DHS and to the court. I sent you a partial list of cases in which DHS had inadvertently placed Hancock County children with pedophiles, registered sex offenders and persons with a history of criminal convictions for violence to children. Those placements were able to be promptly corrected due to the NCIC reports. No blame is assessed to the case workers who had no reason to know of the foster parents background. I simply believe the NCIC checks are a good practice which should be universally used to protect children.

The NCIC reports are just one example of how the court believes it is assisting DHS with investigations. Due to the high turnover, lack of experience and critical under staffing, DHS is

Ted Booth, Esq.  
July 8, 2015

Page 3

doing its best but falling way short of accomplishing the tasks required as set forth in your report on pages 6-19. In your report, on page 52, you note that DHS in Hancock County completes its required tasks on time 24% of the time. That also means the court staff must fill the void 76% of the time in order for Hancock County children to be protected, and for the court to process the cases timely as required by State and Federal law.

I know that DHS is continuing to improve, as does the court. The court is working on a daily basis to resolve conflicts among workers of both entities who interact. Additionally, those of us at the administration level are regularly engaged in dialogue to improve the system and resolve conflicts.

In spite of much discussion and speculation in your report that the children are staying in custody longer due to court policy, your good research reflected on pages 22-23 that the Hancock County children stayed in custody less than those in the other counties. Likewise, the data you collected shows the number of termination of parental rights in Hancock County was no more than in other counties.

There was much discussion in your report that the number of children removed from families and placed into protective custody was considerably higher than the state average. I agree, but when the parents are found to be guilty of simple neglect or isolated incidences of abuse, parents being given a warning is sufficient. In Hancock County where serious drug addiction is involved, removal of the children is the only reasonable option. Your report did not break down the reasons for court intervention. Your report lumps it all together and called it "maltreatment of children." DHS keeps the information and has separate categories for drug abuse, neglect, etc. The real question is, what did your other comparison counties do where drug abuse was involved. Additionally, I am not aware of any children who were in Hancock County DHS custody or who were returned to their families by our youth court who died from parent or foster parent abuse. This claim cannot be made by some of the other counties around the state.

The plight of the Hancock County children has gone public. As a result, support from state and private interests is being offered, and accepted. I believe help is on the way from law enforcement, all three branches of state government, and by the public, and everyone involved is grateful.

Once again, I thank you for your hard work and thorough investigations.

Sincerely,



Sandy Steckler

---

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Ted Booth, General Counsel

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