

**Judge Francis J. Foley, III**  
**Court Improvement Program**  
**Innovations and Leadership Award**  
**May 7, 2013**

Judge Brown did a masterful job of stepping up to the plate to pinch hit at the last moment. Thank you, Peter, for your kind words. I shall be brief.

I am grateful to the awards committee and especially to Marilou Giovannucci and those of you responsible for organizing this meeting, planning the agenda, and obtaining the distinguished faculty required considerable effort to develop this forum. The planning and awards committee should be recognized for their dedicated effort in organizing this meeting.

While I was not told any more than I was to receive an award that had to do with Innovations and Leadership on today's date, I was told no more. I do suspect that it had to do mostly with my work on the Program Improvement Plan for DCF. And if so, I wish to acknowledge that Chief Justice Chase Rogers, Judge Barbara Quinn, and Appellate Court Judge Christine Keller, all of whom who have served a term or two at the Child Protection Session in Middletown, have also worked tirelessly to achieve the changes needed to improve our judicial system.

Special recognition should also go to Commissioner Katz. It was Justice Katz, who authorized the formation of the Committee to Expedite Child Protection Appeals. And as I understand it, it was Commissioner Katz that provided the necessary nudges to the legislature that secured passage of the law to allow adoptions in the Superior Court following the termination of parental rights. And, acting in her capacity as commissioner, she has done more to effectuate positive changes and course corrections in the Department of Children and Families than any commissioner in the 20 years that I have followed that agency. I will mention more about that later.

I would also like to acknowledge a person who has been my best friend, my guide through life, the sounding board for all my many problems: my wife of 45 years, more or less, and the mother of our five children. Judy, would you just raise your hand?

While thanking the women in my life, I would be remiss not to mention my friend and mentor, Judge Frederica Brennehan who I understand is not in the best of health. I know she would be happy to hear from any of you who wished to drop her note.

I want to explain to you as briefly as I can four problem areas that we have addressed and the changes that have been made by many people working toward a common goal, to bring Connecticut into compliance with federal law. We can all be justifiably proud of the tremendous progress we have collectively achieved in reducing the time children spend in foster care.

I will mention only four areas that the Child and Family Services Review identified as obstacles to permanency for Connecticut children.

Timely completion of Permanency plan hearings was a problem.

Our permanency plan hearings were not conducted, as required by state and federal law within 12 months of the child being removed from the home of origin. Failure to conduct those hearings placed Connecticut out of compliance with ASFA. As many of you know, busy judges happily consolidated those contested hearings with the TPR hearing. This knocked Connecticut out of compliance in a large number of cases. In June 2009, following a seminar at the Conn. Judges Institute, which addressed this issue, Judges realized the importance and necessity to actually conduct the hearing within 12 months and they have been doing so. We are now largely in compliance. The problems were solved principally through judicial education.

A second area of concern: Delays in the length of time cases took on appeal. As indicated, with the blessing of then Justice Katz, a committee was formed under the leadership of Chief Judge Alexandra DiPentima. The committee consisted of judges, private bar and AG Ben Zivyon. We were able to make rule changes to reduce the time for Child Protection appeals from filing to decision. Historically, it took approximately 550 days, more than 18 months. With the rule changes and internal protocols within the Appellate Court, I am pleased to announce that for the last calendar year, 2012, the average time from filing the appeal to a written decision was a remarkable 189 days (Paul Hartan). Through the committee's efforts we have reduced by a year the time children spend in temporary shelter. As you all probably know, we also rewrote the rules for Appeals in Child Protection Matters, a new Chapter 79A. This may provide further reduction in the appellate process.

As I mentioned earlier, the judicial hierarchy worked hard along with Commissioner Katz to permit adoptions in the superior court. Judge Barbara Quinn worked diligently negotiating with the Probate Court Administrator to achieve this result. Before the change, the average length of time for an adoption following TPR was 13 months. I have done some adoptions since the law became effective on October 1. I did one adoption 30 days after the time period expired for an appeal. Many are now being accomplished within 2 or 3 months of TPR. Another move to reduce the time children spent in temporary shelter.

With those two changes of appellate time and adoptions, we have eliminated nearly two years of foster care stay. Quicker appeals. Quicker adoptions.

And lastly, when I was on the program improvement committee, seeing these problems, I never believed we would be able to make changes in the Appellate Court rules. Yet that has come to pass.

I never believed that we really could bring adoptions to the Superior Court. Yet that has come to pass.

And I never believed we would be able to reduce the back-log in the assignment of contested termination of parental rights cases for trial. Yet that has come to pass as well.

As long as I have been doing this work, I have always had cases scheduled six months in advance of trial. So I wrongly believed that the only way to reduce that six month backlog was to assign more judges to the work. With budgetary restrictions, there was no way we were going to get more judges. But this vexing and intractable problem has also been solved, not by more judges, but by fewer cases. That is a direct result of policy changes at DCF, for which the Commissioner deserves great credit.

Her policy, seen from my perspective, was a simple one: keep kids with family rather than removing them to foster care. DCF now is more family centered. They have reduced barriers for licensing family members and made greater efforts to have full participation in the placement process by extended family members. This is a remarkable plan, but not without its dangers. The Commissioner will, no doubt, be the subject of great criticism if an extended family member abuses a child. This is an unavoidable risk. And that may happen.

But the overall reward to the many children and families with intra-family placement appears to be great. Children are remaining within families and the court system is consequently less burdened. The number of filings is down. In the Child Protection courts, in Middletown and Willimantic, cases can now get scheduled for assignment often within three months of a request for trial.

So in conclusion, I am very proud and blessed to have worked with so many of you ...dedicated judges, attorney generals, private counsel and court staff, and I accept this award in your name.

Thank you.