II. Inter-County Collaboration

During the first half of Stage Two, the SSWG identified barriers to inter-county collaboration and made recommendations for changes designed to remove or reduce these barriers. Some of the recommendations require changes to the law (statutes, regulations, or both). Some changes do not necessarily require new legislation or regulations but would require the state and/or the counties to develop policies, guidance, and practices to effect the change.

A. Criteria

Before describing the recommendations and the supporting rationale, it may be useful to review the criteria the SSWG considered as it developed the recommendations. As mentioned above, all of the work the SSWG undertook was focused on ensuring (1) high-quality and consistent services, (2) accountability, and (3) transparency. Specifically in the context of collaboration, the group's goal was to make recommendations that

- improve service delivery and efficiency, generating good outcomes for those served in all counties;
- emphasize safety and consistency in all counties;
- foster high-quality and compassionate customer service;
- promote seamless provision of services between counties, including case transfers;
- recognize the need for equitable resources in all counties;
- facilitate ethical decision making to produce ethical outcomes;
- foster more comprehensive, ongoing collaborations that exemplify cooperative efforts towards best practices; and
- strive to minimize conflict.

Some of these criteria are general in nature—such as generating good outcomes—while others are more specific to collaboration. As the SSWG discussions unfolded, it became clear that inter-county collaboration was essential to creating a high-functioning county-administered social services system in our increasingly mobile society.

B. Recommendations

Below are detailed recommendations intended to improve or support inter-county collaboration. The first three categories of recommendations are drawn directly from the legislative charge. They focus on (1) conflicts of interest, (2) inter-county movement of clients, and (3) information sharing. While these three categories appear to be distinct, they actually overlap to a certain extent.

The SSWG identified several recommendations in addition to those related to these three categories. They are more general in nature, but they highlight important challenges facing the social services system.

Many of the recommendations that follow assume that the state will have a regional staff support structure in place consistent with the SSWG recommendations from Stage One. If a more robust system of regional support by the state is not in place, many recommendations may need to be reconsidered.

1. Conflicts of Interest

Recommendation 1.a: The legislature should amend state law to provide a general framework for management of conflicts of interest (COIs). At a minimum, the law should

- define *conflict of interest*;
- direct counties to resolve COIs as quickly as possible consistent with applicable law and policy;
- require counties to notify DHHS (central or regional staff) when a COI is identified;
- grant DHHS the authority to make final decisions regarding COI assignments when disagreements arise (i.e., regional staff have initial authority when the disagreement is between counties; central office staff, when the disagreement is between regions);
- outline county financial and practice responsibilities associated with COIs; ~~and~~
- grant the Social Services Commission rule-making authority related to COI management; and
- direct the Social Services Commission to establish reasonable timelines for resolving COIs.

Recommendation 1.b: Once the laws are amended, DHHS, in consultation with counties, should prepare comprehensive guidance and training regarding the COI law and policy. The agency should ensure that DHHS representatives (including regional staff) understand, interpret, and apply the guidance consistently.

Recommendation 1.c: DHHS should develop a system for continuous monitoring of COI management, including timeliness of notifications and resolutions, which will allow the state and counties to address problems and revise policies over time.

Rationale: Current state policy governing COIs relies on the discretion and professionalism of and the relationships among county directors. For example, the directors

- determine whether a COI exists based on state policy direction,
- decide whether to accept a COI case from another county, and
- allocate financial responsibility between counties involved in a COI case.

The current system works well for some counties but not for all. Challenges involve policy interpretation and equitable case distribution.

Policy Interpretation

State policies governing COIs are not comprehensive, and neither are they interpreted and applied uniformly. These policies were revised in 2016, but additional clarifications are needed to help counties adequately apply them. For example:

- What constitutes a COI? For example, is it a conflict if a CPS report is submitted that concerns a family member of an employee in the economic services section of a large

agency? Or the report relates to a staff person in a different county department? Additional detail and clarification of the definition of a COI would help promote cooperation and consistent policy interpretation and application.

- Who decides a COI exists? Should the receiving county be allowed to question the sending county's decision that a COI exists?
- Is it appropriate for the receiving county to screen a report if it knows a COI exists?
- Who funds the work related to a COI case?
- What is the funding formula for each COI case (by time, function, or situation)?
- What are the expectations regarding reciprocity?

Because state statutes currently do not address COI management, counties rely heavily on DHHS policy for direction. A general statutory framework would be helpful, as well as implementing regulations and conforming policy.

Equitable Case Distribution

Many counties have strong working relationships or formal agreements that allow them to manage COIs relatively seamlessly and efficiently. Unfortunately, some counties do not. Thus, confusion and frustration can result when one county seeks assistance from another. In addition, some counties are not considered good partners. Other counties do not want to send a COI case to these counties for a range of reasons, including quality of work, response time, willingness to assume responsibility, and understaffing. This results in a heavier burden or a perception of a heavier burden on the "good" counties that readily accept COI cases and handle them well. COI distribution systems must both be fair and provide oversight to ensure that the cases are managed appropriately, consistent with law and policy.

Need for Oversight and Arbiter

The regional staff will be in an excellent position to facilitate relationship building across counties; disseminate reliable and consistent information about law, policy, and best professional practices; provide guidance and support when complex COI cases exist; monitor COI behavior in the region; and make decisions when necessary.

Any changes to COI law or policy should not disrupt the systems and relationships that are working well. The SSWG does, however, want to make the state's approach to COI management more uniform and reliable, and it believes DHHS oversight, through both central and regional staff, can help create a stronger system overall.

Recommendation 1.d: Each county should designate one or more staff members to manage COI cases so that requests are received, reviewed, and handled consistently and in a timely manner.

Rationale: COI case management and information sharing can be complicated. The SSWG is concerned about variation in interpretation and application of law and policy, case follow-through, and information sharing in counties having no central point of contact for COI

cases. Assigning this responsibility to specific staff should improve accountability and consistency in managing COIs.

2. Inter-County Movement of Clients

Recommendation 2.a: The legislature should require a study of how residency is determined for the full range of social services programs. The study should examine current practice and law (including G.S. 153A-257) to determine whether state law should be amended.

Rationale: State law governing county of residence (G.S. 153A-257) generates confusion. For example:

- What is the county of residence for a homeless person or family?
- What is the county of residence for a person who is in a rehabilitation facility or institution for an extended period of time?
- Should the county that initially determined Medicaid eligibility always remain the county of residence?

Other laws also contribute to this confusion, such as those that allow DSS to exercise authority when a person is "present" and when a person is a resident in a facility. This confusion can create conflict between counties and negatively impact inter-county collaboration.

> Example: An adult lives in County A for several years and is found eligible for Medicaid by County A's DSS. The adult's health declines, and she moves to an adult care home in County B. A year later, after an APS report is filed in County B, staff from County B conclude that the adult is in need of a guardian. Should County A or B file the petition? The county that files is likely to be appointed guardian.

The state should examine this issue and determine whether changes are necessary to create a more seamless system for individuals needing services. Clients should receive the support they need when they need it. The SSWG wants to ensure that people are not left "in limbo" while counties disagree about residency.

Recommendation 2.b: The legislature should require a study regarding appointments of and funding for publicy-funded guardians. At a minimum, the study should (i) describe the types of appointments of publicly-funded guardians (DSS, organizational contracts with state, organizational contracts with counties); (ii) evaluate the effectiveness of these publicly-funded appointments; and (iii) make recommendations for managing publicly-funded appointments going forward.

Rationale: When a clerk of superior court determines that an adult is incompetent and must have a guardian appointed, the clerk will try to find a family member or friend to serve as guardian. If no one is available or willing to serve, the clerk may appoint a corporation or a director or assistant director of social services to serve. If the incompetent adult has assets, those assets may be used to pay for a corporate guardian. If not, the state or the county may pay for a corporate guardian.

In 2012, the state decided that it would fund a certain number of "slots" for corporate guardianships. This happened because the federal government concluded that all of the incompent adults who previously had a public mental health agency (e.g., LME/MCO) serving as a guardian would need to change guardians.[1] County social services agencies were not prepared to assume responsibility for over a thousand wards at the time so the state "slots" were funded to help with this transition. The slots were assigned to counties at the time based on where the incompetent adults were living. Since that time some of the adults have passed away but the slots have remained assigned to those counties. [Is this accurate?] What was a temporary plan to assist a specific population appears to have become more permanent.

This approach to allocating limited state funding has a potentially negative impact on those counties who have invested more in adult services and, as a result, have staff available to serve as guardians. This dynamic can have a direct impact on inter-county collaboration. For example, a county that does not have a state-funded slot available may be less interested in cooperating with a transfer because all support for the adult will come from county funds. Because of this potential inequity, the state funding for corporate guardianships should be re-evaluated and re-allocated to best serve the needs of the state.

Recommendation 2.cb: The legislature should amend state law to create a clear process for transferring adult guardianship cases~~appointments~~ from one county department to another as well as a process to change venue from one court to another. ~~social services director to another.~~

Recommendation 2.dc: DHHS should establish policies that set a standard information-sharing practice for transferred cases involving both children and adults.

Recommendation 2.ed: Once the law and policies are amended, to ensure consistency across counties DHHS should provide adequate training to counties regarding the procedures that govern transfer of cases.

Rationale: Because individuals and families are mobile, child welfare, child support, and adult services cases are often transferred between counties and judicial districts. Unfortunately, these transfers are not always as smooth and efficient as they could be. Receiving counties may not be involved early enough to receive advance notice, and case information may not be shared in a timely manner.

A detailed state law governs transfers of child protective services cases.[2] The law outlines procedures the court and counties should follow. Some counties are not following these procedures. For example, an attorney may request a transfer from a judge without any discussion with or notice to the receiving county. Sometimes, the case is transferred without any additional information being shared with the new county. The lack of notice or shared

[1] For more background on the reasons for this transition, see https://canons.sog.unc.edu/changes-in-store-for-public-guardians/

[2] *See* G.S. 7B-900.1.

information negatively affects the receiving county's case management. Counties should receive clear direction from the state, including training, about the process governing these transfers.

There is no comparable law governing transfers in the guardianship arena. Guardianship transfers are in the discretion of the clerk of superior court and often occur without notice and adequate information sharing. Legislation should be enacted to create a comparable transfer process for both APS and guardianship cases.

Recommendation 2.fe: The legislature should amend state law to require clerks of court to provide advance notice to a local social services director at least 10 working days before any hearing in which the director may be appointed guardian. This notice requirement would not apply to appointments of interim guardians.

Rationale: Clerks of superior court have the discretion to appoint a social services director or assistant director to serve as the guardian of an incompetent adult.[3] The clerk may believe that the appropriate guardian is in a different county or judicial district.

> *Example:* An adult may be located in the clerk's jurisdiction for a short-term hospitalization but plans to move into a nursing facility close to family in another county in the near future.

Current law does not require the clerk to provide advance notice to the director being considered for appointment. Some clerks have adopted a practice of doing so, but many have not. As a result, directors are often surprised by appointments. Advance notice to all potential social services directors will allow those directors to review the case, discuss it among themselves, plan for the responsibility, identify other potential guardians to serve, and travel to the other county to participate in the hearing if necessary.

This notice should not be required for appointment of a DSS director as an interim guardian because, by definition, those appointments require immediate intervention.[4]

Recommendation 2.gf: The legislature should require a study to examine portability of eligibility determinations and service authorizations for all social services programs that have eligibility requirements. The study recommendations should identify all necessary changes in state law and plans to ensure portability. If federal law prohibits such a change, the study should describe the barriers and identify opportunities to advocate for changes at the federal level.

Rationale: Social services can be disrupted when an individual moves from one county to another, perhaps for a placement through child or adult services.

> *Example:* An individual is in County A, which is part of Local Management Entity/Managed Care Organization (LME/MCO) #1. The LME/MCO authorizes certain

[3] G.S. 35A-1213.
[4] *See* G.S. 35A-1114.

services for the individual. Social Services identifies a placement for the individual in County D, which is part of LME/MCO #2. Because LME/MCO #2 bears the financial risk for the services being provided, it has its own process for authorizing services for the individual. Unless one of the counties agrees to fund the services during the gap using other non-Medicaid funding sources, this process can create disruptions in service delivery.

The legislature should identify all opportunities to create a more seamless, statewide system for the delivery of eligibility-based services. The SSWG recognizes that this is a particularly challenging proposition when risk-bearing managed care organizations are involved, but it is essential to minimize disruptions that result when individuals receiving services simply move from one county of the state to another.

Recommendation 2.hg: DHHS should clarify policies related to inter-county assistance. The policies should set out when counties are expected to provide assistance to other counties for different programs and the financial obligations related to providing this assistance. DHHS, through regional staff, should monitor assistance being provided to establish accountability within the system for this type of inter-county support. Two years after the monitoring system is in place, the legislature should require an evaluation of the DHHS monitoring data and determine whether changes to law are required to promote better collaboration and a more seamless system of service delivery.

Rationale: Staff in one county may be required to travel to a second county to assist with emergency response, conduct home studies for placement, or visit with incarcerated individuals or those in facilities. The travel can consume significant resources from the first county. Sometimes the second county is willing and able to assist with this work but not always. Sometimes when assistance is provided, there is confusion about each county's financial obligations. The SSWG would like the state to work with the counties to develop a more consistent and comprehensive approach to providing assistance in these situations.

Recommendation 2.ih: In order to expedite the path to permanency, protect the rights of all parties, and maximize efficiency, DHHS should amend state policies to encourage or direct counties to increase the use of technology (e.g., video, telephone) to engage with parents or other respondent parties who may be incarcerated, in a facility, ~~or~~ located across the state or out-of-state, or unable to travel due to a legally-recognized disability. Policy changes should emphasize that the use of technology must not compromise the quality and substance of the interactions between DSS staff and others. If, after a comprehensive review of current practices, policies, and law, DHHS concludes that state statutes and/or regulations should be amended to authorize alternative means of engagement in some circumstances, DHHS should submit recommendations to the legislature detailing the needed changes.

Recommendation 2.ji: The legislature should direct the Administrative Office of the Courts (AOC) to work with the Department of Public Safety (DPS), the North Carolina Sheriffs' Association (NCSA), and DHHS to develop policies and procedures for allowing incarcerated

parents and respondent parties to communicate with social workers using telephone or video when possible and appropriate. If legislative changes are required to allow for this practice, the AOC should submit recommendations to the legislature accordingly.

Recommendation 2.kj: The legislature should direct the AOC to work with DPS, NCSA, and DHHS to explore options for allowing incarcerated parents or other respondent parties to participate remotely in court proceedings. Remote participation should be contemplated only if constitutional rights of parties are protected. If options identified are practical and feasible, the group should submit recommendations to the legislature specifying potential benefits and anticipated costs and describing any necessary legislative changes.

Rationale: County staff spend a significant amount of time traveling to and from other counties to visit face-to-face with respondents, particularly parents, in the course of a child welfare case. Some of these in-person visits are required by state or federal law. Some are essential social work practice. But some may not be necessary. If the social worker's objectives can be accomplished by phone or video conference, counties should utilize technology and minimize travel. If state law needs to be amended to accommodate expanded use of this practice, DHHS should recommend legislation or amend regulations.[5]

Social workers often need to talk with a parent or other respondent party who is incarcerated. These workers should be able to communicate with the inmate by phone or video whenever possible to expedite casework and services and ensure incarcerated respondents are involved in cases as much as possible. State law may need to be amended to allow for this access.

Finally, it may be appropriate to allow some incarcerated respondents to participate in court proceedings by phone or video. Doing so may require significant financial investments as well as changes to the law. For example, Rule 43 of the Rules of Civil Procedure may need to be amended to allow witnesses to testify by telephone or video. Options should be explored and recommendations developed that both protect the respondent's rights and maximize efficient disposition of these cases.

3. Information Sharing

Recommendation 3.a: In order to ensure social services staff across the state have access to status information about legal actions involving children and adults involved with the social services system, the new information technology platform being developed for the judicial system should provide attorneys involved with a case (social services attorneys, parent attorneys, attorney advocates) and directors with access to limited statewide information about children and adults who have intersected with the social services system in any county of the state. In addition, the new system should provide the ~~social services~~ attorneys and directors with access to more detailed information about the cases pending or resolved in their own counties. The AOC should consult with DHHS and the counties when developing the new system.

[5] For example, regulations address face-to-face contact during the assessment and placement stages of a case. *See* 10A N.C.A.C. 70A, §§ .0106(d) and (f); 70G, § .0503(m).

Rationale: The AOC is currently developing a new information technology platform to support the judicial system as a whole. The SSWG was surprised to learn that with the current IT system, social services attorneys and staff have very little direct access to electronic case information. They need this access for many reasons, such as

- tracking the status of their own cases,
- confirming whether a case was transferred,
- determining whether another court took action on a case,
- checking to see if another court has terminated jurisdiction in a case, and
- determining whether a child or adult needing services was previously involved with social services in another county.

The AOC is currently involved in developing plans for the new system and hiring a vendor. This new system should be designed to provide social services attorneys and directors access to needed information. The AOC should work with DHHS and counties to develop clear expectations about the scope of information access necessary to provide the best service to individuals and families.

Recommendation 3.b: The legislature should require a study of all state social services confidentiality laws and request recommendations for any revisions necessary to improve inter-county collaboration and service delivery. The study should include laws of general applicability (e.g., G.S. 108A-80 and the regulations in Chapter 69 of the Administrative Code) as well as those that are more specific (e.g., G.S. 7B-302, 7B-2901). The study and recommendations should specifically address

- revisions needed to accommodate the anticipated changes to the judicial system's information technology platform described in Recommendation 3.a above;
- whether state law can be amended to facilitate improved information sharing between child welfare and child support and, if not, whether the state should advocate for changes to federal law; and
- confidentiality laws applicable to the juvenile justice system to ensure information sharing between juvenile justice and social services is adequate to provide the best possible services and supports to juveniles involved with both systems.

Recommendation 3.c: Once the laws are amended, DHHS, in consultation with counties, should prepare comprehensive guidance and training regarding information sharing and confidentiality for all of the social services programs. The agency should ensure its central and regional staff understand, interpret, and apply the guidance consistently.

Rationale: There are many different confidentiality laws governing social services programs. Some are federal (such as child support), but many are primarily state law. Some of them may be barriers to inter-county or inter-program collaboration.

Example: Child welfare staff and attorneys are sometimes reluctant or unable to use "failure to pay support" as a basis for terminating parental rights because the child welfare staff does not have the necessary information from the child support program.

In addition, not everyone interprets and applies confidentiality laws consistently. As a result, some counties may not share information within and across programs the same way other counties do. This can result in frustration for staff and fragmented support for individuals and families needing assistance. Counties report that staff are confused about confidentiality laws at both the local and state levels.

The state laws should be carefully studied and revised to ensure an appropriate balance between protecting the information and sharing it with other counties, public agencies, and others when necessary and appropriate. If the study identifies significant barriers in federal law, the state should advocate for changes at the federal level.

After state laws are amended, DHHS should provide clear policy interpretations and training to ensure that all counties are taking the same approach to information sharing. Improved and more consistent information sharing will lead to higher quality inter-county collaboration and potentially better outcomes.

4. Other Recommendations

Recommendation 4.a: DHHS, in consultation with counties, should assist in the creation of programs and policies to improve workforce development and training in order to cultivate and support high-quality and consistent social services leadership.

Rationale: Counties are facing significant challenges with recruiting, training, and retaining leaders in their social services agencies. In order to have a high-quality social services system with consistent practices across the state, the counties need strong leaders committed to developing relationships across county lines, building and supporting excellent staff, and following law and policy closely. The state should invest in workforce development to ensure a pipeline of leaders equipped to manage this complex system effectively. DHHS should consult with counties and consider how to coordinate with other workforce development activities underway, such as those offered by the Social Services Directors' Association and the N.C. Association of County Commissioners (NCACC).

Recommendation 4.b: Regional offices should be responsible for monitoring staffing, capacity, and caseloads in local social services agencies within their region. No more than two years after the regional support system is in place, the legislature should require a study of local social services staffing, capacity, and caseloads. The study should make recommendations to DHHS, the counties, and, if appropriate, the legislature regarding changes necessary to ensure adequate staffing to support high-quality and efficient services.

Rationale: Inadequate staffing has a direct impact on inter-county collaboration. An understaffed department is unable to assist other counties as well as an adequately staffed department with COI cases, home visits, etc. Regional offices will be well-positioned to

understand the staffing needs in the counties, provide assistance in urgent situations when necessary, and offer recommendations for system-wide and county-specific changes needed to ensure appropriate staffing. Once the regional offices have assessed the staffing, capacity, and caseloads, the state will be able to identify needs and make recommendations for changes.

Recommendation 4.c: DHHS central and regional staff should follow consistent interpretations and applications of law and policy governing social services programs. While it is important that DHHS support and promote innovation, consistency and effectiveness should be prioritized.

Recommendation 4.d: DHHS should increase the quantity, quality, and accessibility of training provided to county staff.

Rationale: Practice and policy implementation vary tremendously across the state. Counties can receive conflicting advice from different people at the state level. This variation in practice can generate a lack of trust or confidence in the work of other counties. Consistent interpretation and application of policies and expectations will foster greater trust among counties and willingness to collaborate. To accomplish this, the state staff (both central and regional) must first adopt and employ consistent interpretations of law and policy. The state must then ensure that county staff receive more and consistent training about that law and policy.

Recommendation 4.e: DHHS should collect examples of positive inter-county collaborations and develop an online clearinghouse to share information about those collaborations with other counties. Regional staff should disseminate resources, identify potential collaborations, and help counties initiate new collaborations. Associations such as the Social Services Directors' Association and the NCACC should continue to highlight and recognize successful and innovative collaborations at their annual conferences and in their publications. As mentioned above, while it is important to support and promote innovation, consistency and effectiveness should be prioritized.

Rationale: There is anecdotal evidence of successful and unsuccessful inter-county collaborations. In the current system, collaborations develop based on (1) relationships between directors, (2) geographic proximity, and (3) historical partnerships. Lower-resourced counties are often unable to invest the time and means necessary to initiate a new collaboration. The directors' association, NCACC, and state programs have collected and disseminated some best practices, but the state should lead an effort to collect and disseminate more comprehensive information and tools to further support successful collaborations among counties. Because regional staff will be in a unique position to gather information, the state should prioritize collecting information about collaborations and coordinating with the appropriate associations to disseminate best practices. This role of regional staff should be supportive and not directive. In a county-administered social services system, inter-county collaboration should always be voluntary.

Recommendation 4.f: The legislature should direct DHHS to review all existing requirements for (i) counties to submit reports to the state and (ii) DHHS to submit reports to the legislature. Any unnecessary reporting requirements should be eliminated or modified.

Rationale: The SSWG recommendations and other social services reform efforts envision many new reporting requirements. The SSWG is concerned about overburdening state and county staff with unnecessary administrative duties. Therefore, the group recommends that all mandatory reporting requirements be reviewed and reconsidered.

Recommendation 4.g: The legislature and DHHS should reexamine the plan to use NCFAST for child welfare and other social services programs. If NCFAST should be abandoned, it is important to take action as soon as possible so a different system can be developed and implemented.

Rationale: It is essential that the counties and the state have the most appropriate, efficient, and accurate system to support service needs and effective inter-county collaboration. The SSWG is concerned that the current system under development, NCFAST, has not and will not be successful. The group recognizes that the state and the pilot counties have invested a significant amount of time and money in modifying the system for child welfare and that many are paying careful attention to the system's evolution. The SSWG's primary recommendation to all involved with this effort is to abandon the system sooner rather than later if it appears that NCFAST, as modified, will not meet the needs of the state long term.

Recommendation 4.h~~f~~: The legislature should establish an interdisciplinary and representative body, similar to the Social Services Working Group, to serve as an advisory body related to social services system reform. The body could conduct research and provide feedback to the legislature and others on issues related to changes happening across the system as they arise. The advisory body would be time-limited, would be assigned specific tasks by the legislature, and would not duplicate efforts of other advisory or rule-making bodies.

Rationale: North Carolina's social services system is undergoing significant transition. The SSWG is concerned that if some of the reforms are not successful, the state could experience avoidable system failures or challenges. The SSWG believes an interdisciplinary and representative group could be an excellent resource for the state to consult as it implements these dramatic system changes. The advisory body would primarily be accountable to the legislature, but it could also help support agency initiatives and transitions as well. In developing this type of advisory body, the legislature should ensure that the body complements, rather than duplicates, the work of other bodies such as the Social Services Commission and the Child Well-Being Transformation Council.