

GOVERNMENT OF THE DISTRICT OF COLUMBIA

Exhibit 1

Report of Performance Rating

(Prepare in Triplicate - Instructions on Reverse side)

Name of Employee Mary Phillips	Title and Grade Trial Attorney	Rating Period 4.1.97-3.31.98
Department/Bureau/Division/Branch, etc. Corporation Counsel, Juvenile		Employee Status
Type of Report Scheduled <input checked="" type="checkbox"/>) Unscheduled ()	Rater Supervised Employee From To	Check one: Administrative () Supervisory () Planning () All Others ()

FACTORS FOR RATING

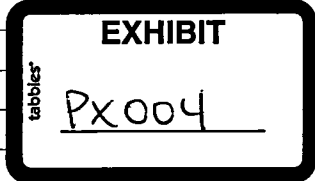
- | | |
|---|--|
| <p>1. <input checked="" type="checkbox"/> QUANTITY <input checked="" type="checkbox"/></p> <p><input type="checkbox"/> Amount of Work</p> <p><input checked="" type="checkbox"/> Completion of Work on Schedule</p> <p>2. <input checked="" type="checkbox"/> QUALITY <input checked="" type="checkbox"/></p> <p><input checked="" type="checkbox"/> Accuracy</p> <p><input checked="" type="checkbox"/> Neatness of Work Product</p> <p><input checked="" type="checkbox"/> Thoroughness</p> <p><input checked="" type="checkbox"/> Judgment</p> <p><input checked="" type="checkbox"/> Oral Expression</p> <p><input checked="" type="checkbox"/> Written Expression</p> <p>3. <input checked="" type="checkbox"/> WORK HABITS <input checked="" type="checkbox"/></p> <p><input checked="" type="checkbox"/> Observance of Working Hours</p> <p><input checked="" type="checkbox"/> Attendance</p> <p><input checked="" type="checkbox"/> Observance of Rules Including Safety</p> <p><input checked="" type="checkbox"/> Economy of Time and Materials</p> <p><input checked="" type="checkbox"/> Compliance With Work Instructions</p> <p><input checked="" type="checkbox"/> Orderliness in Work</p> <p><input checked="" type="checkbox"/> Job Interest</p> <p><input checked="" type="checkbox"/> Initiative</p> <p><input checked="" type="checkbox"/> Resourcefulness</p> <p>4. <input checked="" type="checkbox"/> PERSONAL RELATIONS <input checked="" type="checkbox"/></p> <p><input checked="" type="checkbox"/> Cooperation with Co-workers</p> <p><input checked="" type="checkbox"/> Dealing with the Public</p> <p><input checked="" type="checkbox"/> Personal Habits</p> | <p>5. <input checked="" type="checkbox"/> ADAPTABILITY <input checked="" type="checkbox"/></p> <p><input checked="" type="checkbox"/> Performance in New Situations</p> <p><input checked="" type="checkbox"/> Performance in Emergencies</p> <p>6. <input type="checkbox"/> SUPERVISION AND PLANNING <input type="checkbox"/></p> <p><i>Effectiveness In:</i></p> <p><input type="checkbox"/> Planning Broad Programs</p> <p><input type="checkbox"/> Adapting Work Program to Broader or Related Programs</p> <p><input type="checkbox"/> Devising Procedures</p> <p><input type="checkbox"/> Laying Out Work and Establishing Standard of Performance for Subordinates</p> <p><input type="checkbox"/> Directing, Reviewing and Checking Work of Subordinates</p> <p><input type="checkbox"/> Instructing, Training and Developing Subordinates in work</p> <p><input type="checkbox"/> Promoting High Morale</p> <p><input type="checkbox"/> Delegating Clearly Defined Authority to Act</p> <p><input type="checkbox"/> Decision-Making Process</p> <p><input type="checkbox"/> Determination and Utilization of Manpower and Materials</p> <p><input type="checkbox"/> Efforts to ensure EEO in all appropriate aspects of Recruitment, Hiring, Training, Promoting, Recognition, etc.</p> <p>7. <input type="checkbox"/> OTHER (specify) <input type="checkbox"/></p> <p>_____</p> <p>_____</p> <p>_____</p> |
|---|--|

TEMPORARY ASSIGNMENTS OUT OF JOB CLASSIFICATION

Inclusive Dates	Assignment/Duties Assumed	Rating

COMMENTS

Describe employee's strengths and deficiencies and include other comments. Comments MUST be made for Excellent or Satisfactory Ratings.



PERFORMANCE RATING ASSIGNED

- () Outstanding () Excellent () Satisfactory () Unsatisfactory


This rating is based on my personal knowledge and observation of the employee's performance.

This rating has been discussed with me.

Rater: _____ Date <u>6/19/98</u> Signature:	Employee: _____ Date _____ Signature: _____
Reviewer: <u>Robert H. ...</u> Date <u>6/24/98</u> Signature: _____	Approving Authority: _____ Date _____ (O & U ratings) Signature: _____

MEMORANDUM

To: Michael Cobb
Chief, Criminal Branch

From: Dave Rosenthal 
Chief, Juvenile Section

Date: June 19, 1998

Re: 1997 Performance Evaluation for Mary Phillips

Attached to this memorandum is Mary Phillips', unsigned 1997 Performance Evaluation. Yesterday I gave the evaluation to Ms. Phillips and asked her to review it and then speak with me. Late in the afternoon she told me that she would like to talk to me about why I had given her an overall performance rating of excellent and not outstanding. Because we kept getting interrupted by police officers trying to get their cases papered, we agreed to meet this morning. At the beginning of the meeting she handed me a copy of a letter dated July 17, 1997 to JoAnn Robinson from members of the MPD Sex Offense Branch. The letter praised her. I had never seen it before. Ms. Phillips asked if I would include a reference of it in the written attachment to the Performance Evaluation. I told her that had I received it earlier I would have included it in the Performance Evaluation, and that of course, I would add it now.

Ms. Phillips asked that in light of the letter from the Sex Offense Branch, would I now raise her overall evaluation to outstanding. I told her that I had already considered how she got along with police officers when in the evaluation I stated "She has developed a close working relationship with some of the police officers, social workers, and defense attorneys with whom she deals." We then got into a discussion about why she had not received an outstanding evaluation. I explained that one reason was that her overall adjudication rate, while excellent was not outstanding, and that while her trial conviction rate was commendable, she only tried 14 cases. We then, briefly discussed the problem she had had returning trial jackets for record keeping purposes. She presented her view that in juvenile cases "numbers shouldn't matter" and that she spent more time doing other things in addition to prosecuting than other attorneys did. I acknowledged that she spent a lot of time working with some of the respondents and complainants on her caseload, and while that was commendable, it was not the main part of her job. I explained that as prosecutors in the Juvenile Section we had to consider not only the care and rehabilitation of the respondents, but the safety of the community as well. The discussion deteriorated at this time. Ms. Phillips started bringing up matters about the Office which predated my being Section Chief and to which I was not privy. I tried to remind her that I was not a party to any previous matters between her and the Office. I am not sure why this was brought up other than to try to intimidate me. When I said that I would not change the overall evaluation to outstanding she stood up. I asked her if she would sign the evaluation. She declined and left my office.

During this rating period Mary Phillips resolved 192 cases, with an overall adjudication rate of 65%. In addition, she tried 14 cases, winning 13, for a 93% conviction rate at trial.

Ms. Phillips obviously cared a great deal about the respondents and the witnesses on her case load. She frequently made herself available to speak or meet with witnesses outside of the normal business hours. She tried to be considerate of the witnesses time. She has developed a close working relationship with some of the police officers, social workers, and defense attorneys with whom she deals.

As a result of the relationship that she had developed with employees of the Department of Human Services, staff from that agency requested that she be assigned to one of the attorney positions which was being created through a Memorandum of Understanding between the Office of Corporation Counsel and the Department of Human Services. Just after the rating period ended Ms. Phillips volunteered to assume one of these positions. She is in the process of establishing the parameters of the new position. She has already successfully represented that agency at court hearings and has met with their staff. She immediately threw herself into her new assignment.

**ATTORNEY WORK PLAN AND
PERFORMANCE EVALUATION**

Employee Name: Mary Phillips - Title and Grade: ACC DS- *14

Division: Enforcement Branch/Section: Juvenile Section

Employee Status: Perm. F-T Excep. Rating Period: April 1998 - September 1999
Type of Report:

Check one: Scheduled (x) Unscheduled ()

Check one: Supervisory () Administrative () All Others (x) Attorney

Period of Supervision: Rater Supervised Employee - Dave Rosenthal
From: April 1998 To: September 1999

Part B. Development/ Discussion and Approval of Performance Work Plan

Rater's Signature: _____

Date: 3/29/00

Employee's Signature: _____

Date: _____

Deputy's Signature: _____

Date: 3-28-00

*Charlotte Parker
Dillon's supervisor*

Part C. Progress Review

Rater's Signature: _____

Date: _____

Employee's Signature: _____

Date: _____

Part D. Summary of Rating of Performance Element(s)

Critical Performance Elements	Rating Level			
	Fails Expectations	Needs Improvement	Meets Expectations	Substantially Exceeds Expectations
Conduct of Legal Research			X	
Oral Preparation and Presentation				X
Efficiency, Productivity and Work Habits				X
Professional Conduct and Effectiveness in Working with Others			X	
Office Procedures				X
Litigation Standards				X

* Ms. Phillips was a DS-13 for a substantial part of this rating period.

Notwithstanding that Ms. Phillips received an overall rating of substantially exceeds expectations she refused to sign the evaluation.

[Signature]
Dave Rosenthal

Part E. Overall Rating Level (check one)

Fails Expectations	Needs Improvement	Meets Expectations	Substantially Exceeds Expectations
			X

Rater's Signature and Date:

[Handwritten Signature] 2/28/00

Employee's Signature and Date:

Branch Chief's Signature and Date:

Deputy's Signature and Date:

[Handwritten Signature] 3-28-00

Part F. Reviewer's Information

Reviewer's Signature:

[Handwritten Signature]

Date:

5.8.00

PERFORMANCE STANDARDS

I. CONDUCT OF LEGAL RESEARCH AND WRITING

Performance Standards: Applicable to All Attorneys

1. Ascertains all facts relevant to an assignment and reviews all pertinent documents.
2. Identifies all legal/factual issues involved and correctly analyzes them. Identifies controlling statutory, case and regulatory authority applicable to each legal issue and supports written conclusions with proper citation to the controlling authority. Recognizes the absence of controlling authority, as appropriate, and identifies other persuasive authority when it is available.
3. Prepares briefs, contracts, letters, memoranda, motions, and similar documents which are of acceptable quality (i.e., appropriate in length, style and tone, clear, free of errors in grammar, punctuation and spelling, in the proper format and neat); are persuasive, polished, thorough, well-organized, and well-reasoned; and which are completed promptly and in accordance with any deadlines set by supervisors.

<u> </u> Substantially Exceeds Expectations	<u> X </u> Meets Expectations
<u> </u> Needs Improvement	<u> </u> Fails Expectations

Please Explain:

Ms. Phillips ascertains the facts necessary to argue the Youth Service Administration's position at post-adjudication motions. Because of the nature of the cases that she handles she responds orally, in court, more often than she is called upon to file written responses. This phenomenon fits well with her style of argument. Ms. Phillips shies away from filing written pleadings. She prefers to argue her cases orally. She is always careful to identify controlling statutory and case authority. In one case Ms. Phillips filed a comprehensive pleading which argued that the judge did not have the authority to issue the underlying order. After the court reviewed the pleading it discharged the Show Cause Order that it issued against YSA without argument. Through her diligence, Ms. Phillips is able to avoid show cause motions being filed against YSA. YSA reports that Ms. Phillips appears strong in this area. She seems to be well versed on the applicable D.C. Code sections and is frequently able to operate from memory. She was very helpful to YSA when they worked on revising their revocation proceedings.

II. ORAL PREPARATION AND PRESENTATION

Performance standards: Applicable to All Attorneys

1. Prepares matters for oral presentation so as to be sufficiently familiar with all-relevant documents, facts, laws, court orders, policies, and regulations. Organizes presentation in a clear, logical, thoughtful and persuasive manner.
2. Expresses the position of the District of Columbia clearly, logically, and persuasively, and displays technique and demeanor appropriate for the forum, including the ability to think quickly and logically on his/her feet and to address unexpected situations effectively.
3. Exercises sound judgment, skill and creativity, including problem solving and negotiations where appropriate.

Substantially Exceeds Expectations
 Needs Improvements

Meets Expectations
 Fails Expectations

Please Explain:

Ms. Phillips is frequently called upon to make presentations to the Youth Service Administration's staff. For example she participated in training sessions for YSA staff. The topics covered were the differences in the court's power over a detained or committed respondent, the difference between a restrictive and unrestrictive commitment, and the procedures that YSA should use to request an emergency hearing.

Since the creation of the YSA Unit Ms. Phillips and Mr. Zirpoli have been able to head off contempt orders being issued against the YSA. They effectively represent the interest of the agency at court hearings. They are proactive. By working closely with the administration and social workers at YSA they are able to insure that the agency is in compliance with court orders. Prior to the YSA Unit becoming fully operational Ms. Phillips represented the Office and YSA at show cause hearings. She was able to satisfactorily resolve each case and have the Order to Show Cause withdrawn.

Ms. Phillips has demonstrated a comprehensive skill in interpreting and applying policies and court precedent to her arguments. Members of the judiciary have come to rely on her advice when fashioning or modifying disposition (sentencing) orders.

III. EFFICIENCY, PRODUCTIVITY, AND WORK HABITS

Performance Standards: Applicable to All Attorneys

1. Performs work at an appropriate pace, making efficient use of available resources. Produces an appropriate quantity of work in terms of number of matters completed and length of each matter completed. Sets appropriate priorities in completing assignments, including completion of more difficult assignments first when warranted.
2. Complies with work instructions given by supervisors. Completes written work in time to permit appropriate supervisory review in accordance with established internal procedures. Recognizes that complex, novel, or sensitive issues may require additional supervisory review and submits written work in accordance with that recognition. Keeps supervisors sufficiently informed of developments and difficulties in assigned matters to allow relevant supervisory involvement.
3. Appears promptly for all scheduled meetings, hearing and other scheduled matters.
4. Accepts supervision and responds appropriately to constructive criticism, suggestions and directives related to the handling of cases assigned.

Substantially Exceeds Expectations
 Needs Improvement

Meets Expectations
 Fails Expectations

Please Explain:

Ms. Phillips is one of two people who handle the vast majority of our post-disposition (post-sentencing) caseload. She attends probation and commitment review hearings, probation revocation hearings, and YSA show cause hearings. These hearings are before judges who are no longer on the Juvenile Calendars. In addition to her court obligations she is required to spend a substantial part of her workweek at YSA facilities in the District of Columbia or Laurel, Maryland. She works closely with YSA, the Residential Placement Unit, and Court Social Services to prepare for her hearings. YSA reports that Ms. Phillips is always prompt for meetings and court. She responds to YSA inquiries in a timely manner and is excellent in handling emergencies. She consults with YSA managers and supervisors to keep them informed of issues and to make recommendations.

IV. PROFESSIONAL CONDUCT AND EFFECTIVENESS IN WORKING WITH OTHERS

Performance Standards: Applicable to All Attorneys

1. Is thoroughly familiar with applicable standards of ethical and professional responsibility and conforms to these standards. Is thoroughly familiar with the Office of Corporation Counsel policies and procedures and conforms to these policies and procedures. Exercises sound judgment in seeking supervisory or other guidance in those areas of ethical and professional conduct which present unique, unfamiliar or difficult questions.
2. Establishes and maintains productive and courteous working relationships with co-workers, agencies and individuals (including the private bar) with whom the Office has professional contact.
3. Accepts supervision and responds appropriately to constructive criticism from supervisors. Utilizes support and administrative staff services appropriately, and provides constructive feedback to support staff regarding performance. In appropriate circumstances, provides guidance and assistance to others in connection with matters outside the scope of his/her assignments.
4. Keeps interested parties adequately informed of events in assigned matters, and consults with these parties as appropriate.

_____ Substantially Exceeds Expectations X Meets Expectations
_____ Needs Improvement _____ Fails Expectations

Please Explain:

The Office created a unit to handle post disposition matters where a respondent is, or is likely to be, committed to the care of DHS/YSA. As a result of the relationship that Ms. Phillips had developed with employees of YSA, staff from that agency requested that she be assigned to one of the positions. She immediately threw herself into her new assignment.

Ms. Phillips could make more of an effort to depersonalize her cases. Although she usually accepts constructive criticism from supervisors and fellow attorneys, at times she reacts negatively when a supervisor suggests a course of action which is contrary to what she feels is appropriate. Ms. Phillips has positive and productive relationships with supervisors and managers at YSA. However, at times she exhibits difficulty in respecting the role of the social workers to make clinical decisions and will express the differences in the courtroom rather than outside or prior to court. YSA reports that the lines of responsibility seem unclear to her. YSA feels that Ms. Phillips provides valuable legal assistance in representing the agency when there is a potential that a juvenile will be committed or when a juvenile is committed to the agency. The agency has noted that, at times, Ms. Phillips loses her objectivity. This has occurred during court proceedings when she has had difficulty supporting the YSA social worker's position. She tends to side with the juvenile or juvenile's attorney. YSA would prefer to work out such disagreements before they enter the courtroom. The case responsibilities, casework and legal representation need to be clear for all parties. However, YSA reports that Ms. Phillips is extremely responsive to YSA requests. She is very good with supporting YSA programs and projects that are beyond her legal role. She attends activities to show support and learn more about YSA programming.

V. OFFICE PROCEDURES

Performance standards: Applicable to All Attorneys

1. Maintains calendar, case files and other litigation- related material in an orderly, logical manner to minimize misplacement or loss and so others can locate information in the event of an absence or an emergency.
2. Follows applicable office procedures including complying with all safety and security requirements, and ensures supervisors are timely advised of his/her availability and whereabouts.

Substantially Exceeds Expectations Meets Expectations
 Needs Improvement Fails Expectations

Please Explain:

The Juvenile Section lost its Section Chief and the majority of its senior attorneys in the summer and fall of 1997. The remaining attorneys had to paper cases, staff three trial courtrooms, and try felony and misdemeanor cases while new attorneys were being trained. The effect of the attorney turnover was still felt during the current review period. The Juvenile Section has a large number of entry level attorneys. Approximately 70% of the trial attorneys were a DS-11 or DS-12 during major portions of this review period. Nonetheless the adjudication rate either stayed the same as when the "more experienced attorneys" worked for the Section or improved slightly. The attorneys in the Juvenile Section demonstrate a dedication to their job. When they see a problem they deal with it or make sure that someone else does. A recent example of their individual dedication, although after this review period, occurred when the District of Columbia government was closed because of snow. The Superior Court remained open only for arraignments. The Juvenile Section needed two attorneys to cover this assignment. Six trial attorneys and a supervisor came to work. Each attorney was concerned that no one else would be able to cover court.

Ms. Phillips frequently makes herself available to speak or meet with YSA personnel outside of normal business hours. It is not unusual for her to make and receive phone calls from her home late into the night or on weekends to try and solve problems that arise in the cases that she handles. YSA staff feel comfortable contacting her to seek her opinion during these times. Ms. Phillips has had difficulties maintaining a calendar of the cases that she is working on and the court hearings that she has attended. On numerous occasions she has spoken to her supervisor about this. Lately she has made a greater effort to keep her supervisor apprised of her YSA calendar.

VI. ADDITIONAL STANDARDS FOR LITIGATING ATTORNEYS

The following standards only apply to ACC/Litigators (civil, criminal, and administrative)

1. In consultation with the supervisor, properly evaluates the case for settlement and/or litigation, assessing the strengths and weaknesses of each side. Develops and implements litigative strategies appropriate to the case and makes litigation choices based on the relevant facts, case law and the relative strengths and weaknesses of the government's case and that of the opposing party.
2. Conducts discovery in a timely and thorough manner that is consistent with the requirements of assigned cases and ensures that information developed is directly pertinent to the litigative efforts, whether through dispositive motions or full trial preparation. Properly prepares for giving testimony in deposition and in court. Informs and consults supervisor when necessary as to the status of the litigation and any significant developments. Files dispositive and/or other motions consistent with the case strategy and developments in the litigation. Timely responds to motions filed against our clients and replies to oppositions to our motions.
3. Properly manages questions relating to settlement, including complying with all ADR requirements; timely seeking settlement authority or authority not to settle; appropriately evaluating cases for settlement; and demonstrating, proper negotiating skills and techniques.
4. Demonstrates skill in the examination of witnesses, the introduction and use of evidence, opening statements, closing arguments and other aspects of in-court litigation and exhibits a proficiency with applicable rules relating to procedure and evidence.
5. Properly manages post-trial obligations (.Timely reports to supervisors; timely files post-trial motions where appropriate; timely requests appeal or no-appeal; timely processes paperwork for payment of judgments or settlements; and timely closes out case files, including submitting forms for entry of trial and disposition data.

Substantially Exceeds Expectations Meets Expectations
 Needs Improvement Fails Expectations

Please Explain:

Ms. Phillips immediately responds to agency and court demands. She drops everything and works on the case. It is not unusual for her to cancel leave to attend a last minute hearing when she feels that because of her special knowledge about a case that her input at the hearing would be valuable to the Office or the Court. She successfully heads off problems before they reach the "show cause" state. YSA reports that Ms. Phillips has an excellent relationship with the judges. She assists YSA with following through on court obligations. She is good with negotiating when she maintains her objectivity. She is capable of handling complex post-disposition issues that contain several major issues with little supervision.

**ATTORNEY WORK PLAN AND
PERFORMANCE EVALUATION**

Employee Name: Mary Phillips - **Title and Grade:** ACC DS- *14

Division: Enforcement **Branch/Section:** Juvenile Section

Employee Status: Perm. F-T Excep. **Rating Period:** April 1998 - September 1999

Type of Report:

Check one: Scheduled (x) Unscheduled ()

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From: April 1998 To: September 1999

Part B. Development/ Discussion and Approval of Performance Work Plan

Rater's Signature: _____

Date: 3/29/00

Employee's Signature: _____

Date: _____

Deputy's Signature: _____

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Part C. Progress Review

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Critical Performance Elements	Rating Level			
	Fails Expectations	Needs Improvement	Meets Expectations	Substantially Exceeds Expectations
Conduct of Legal Research			X	
Oral Preparation and Presentation				X
Efficiency, Productivity and Work Habits				X
Professional Conduct and Effectiveness in Working with Others			X	
Office Procedures				X
Litigation Standards				X

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Notwithstanding that Ms. Phillips received an overall rating of substantially exceeds expectations she refused to sign the evaluation.

[Handwritten Signature]

Dave Rosenthal

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[Handwritten Signature] 2/28/00

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Performance standards: Applicable to All Attorneys

1. Maintains calendar, case files and other litigation- related material in an orderly, logical manner to minimize misplacement or loss and so others can locate information in the event of an absence or an emergency.
2. Follows applicable office procedures including complying with all safety and security requirements, and ensures supervisors are timely advised of his/her availability and whereabouts.

Substantially Exceeds Expectations Meets Expectations
 Needs Improvement Fails Expectations

Please Explain:

The Juvenile Section lost its Section Chief and the majority of its senior attorneys in the summer and fall of 1997. The remaining attorneys had to paper cases, staff three trial courtrooms, and try felony and misdemeanor cases while new attorneys were being trained. The effect of the attorney turnover was still felt during the current review period. The Juvenile Section has a large number of entry level attorneys. Approximately 70% of the trial attorneys were a DS-11 or DS-12 during major portions of this review period. Nonetheless the adjudication rate either stayed the same as when the "more experienced attorneys" worked for the Section or improved slightly. The attorneys in the Juvenile Section demonstrate a dedication to their job. When they see a problem they deal with it or make sure that someone else does. A recent example of their individual dedication, although after this review period, occurred when the District of Columbia government was closed because of snow. The Superior Court remained open only for arraignments. The Juvenile Section needed two attorneys to cover this assignment. Six trial attorneys and a supervisor came to work. Each attorney was concerned that no one else would be able to cover court.

Ms. Phillips frequently makes herself available to speak or meet with YSA personnel outside of normal business hours. It is not unusual for her to make and receive phone calls from her home late into the night or on weekends to try and solve problems that arise in the cases that she handles. YSA staff feel comfortable contacting her to seek her opinion during these times. Ms. Phillips has had difficulties maintaining a calendar of the cases that she is working on and the court hearings that she has attended. On numerous occasions she has spoken to her supervisor about this. Lately she has made a greater effort to keep her supervisor apprised of her YSA calendar.

VI. ADDITIONAL STANDARDS FOR LITIGATING ATTORNEYS

The following standards only apply to ACC/Litigators (civil, criminal, and administrative)

1. In consultation with the supervisor, properly evaluates the case for settlement and/or litigation, assessing the strengths and weaknesses of each side. Develops and implements litigative strategies appropriate to the case and makes litigation choices based on the relevant facts, case law and the relative strengths and weaknesses of the government's case and that of the opposing party.
2. Conducts discovery in a timely and thorough manner that is consistent with the requirements of assigned cases and ensures that information developed is directly pertinent to the litigative efforts, whether through dispositive motions or full trial preparation. Properly prepares for giving testimony in deposition and in court. Informs and consults supervisor when necessary as to the status of the litigation and any significant developments. Files dispositive and/or other motions consistent with the case strategy and developments in the litigation. Timely responds to motions filed against our clients and replies to oppositions to our motions.
3. Properly manages questions relating to settlement, including complying with all ADR requirements; timely seeking settlement authority or authority not to settle; appropriately evaluating cases for settlement; and demonstrating, proper negotiating skills and techniques.
4. Demonstrates skill in the examination of witnesses, the introduction and use of evidence, opening statements, closing arguments and other aspects of in-court litigation and exhibits a proficiency with applicable rules relating to procedure and evidence.
5. Properly manages post-trial obligations (.Timely reports to supervisors; timely files post-trial motions where appropriate; timely requests appeal or no-appeal; timely processes paperwork for payment of judgments or settlements; and timely closes out case files, including submitting forms for entry of trial and disposition data.

Substantially Exceeds Expectations Meets Expectations
 Needs Improvement Fails Expectations

Please Explain:

Ms. Phillips immediately responds to agency and court demands. She drops everything and works on the case. It is not unusual for her to cancel leave to attend a last minute hearing when she feels that because of her special knowledge about a case that her input at the hearing would be valuable to the Office or the Court. She successfully heads off problems before they reach the "show cause" state. YSA reports that Ms. Phillips has an excellent relationship with the judges. She assists YSA with following through on court obligations. She is good with negotiating when she maintains her objectivity. She is capable of handling complex post-disposition issues that contain several major issues with little supervision.

ATTORNEY PERFORMANCE APPRAISAL (FY2000)

Part A. Employee Information

Employee Being Rated: Mary Phillips	Title, Grade and Step: Trial Attorney DS-14
Division: Criminal Division	Branch/Section: Juvenile Section
Status: Perm. F-T Excep.	Rating Period: October 1, 1999 through September 30, 2000
Type of Report (check one): <input checked="" type="checkbox"/> Scheduled <input type="checkbox"/> Unscheduled <input type="checkbox"/> Interim	Period of Supervision: From: October 1, 1999 To: September 30, 2000

Part B. Development, Discussion and Approval of Performance Work Plan

Rater's Signature and Date:	Deputy's Signature:	Employee's Signature:
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Part C. Progress Review

Rater's Signature/Date:	Employee's Signature/Date:
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Part D. Summary of Rating of Performance Elements

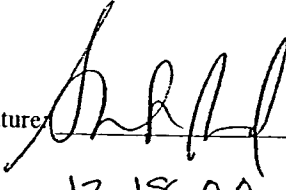
Performance Element	Exceeds Expectations	Meets Expectations	Needs Improvement	Fails Expectations
1. Legal Research and Writing		X		
2. Oral Preparation & Presentation	X			
3. Efficiency, Productivity and Work Habits	X			
4. Professional Conduct and Effectiveness in Working With Others		X		
5. Office Procedures	X			
6. Additional Standards for Litigating Attorneys	X			

Part E. Overall Rating

Overall Rating (Check One)	Exceeds Expectations	Meets Expectations	Needs Improvement	Fails Expectations
	X			

Signatures: Rater:  Deputy: _____ Employee: Mary Phillips

Part F. Reviewer's Signature

Reviewer's Name: Sharon Anders Signature:  Date: 11/29/00
Arabella W. Neal 12-18-00

ATTORNEY WORK PLAN & COMPETENCY STANDARDS

Please rate the employee's performance relative to each standard. The definitions set out below of each standard should be used as a benchmark for the performance level "meets expectations."

- A. **CONDUCT OF LEGAL RESEARCH AND WRITING.** This competency measures the employee's job knowledge, communication ability, and service to the client, as reflected in his/her written work.

Applicability: This standard applies to All Attorneys

1. Ascertains all facts relevant to an assignment and reviews all pertinent documents.
2. Identifies all legal/factual issues involved and correctly analyzes them. Identifies controlling statutory, case and regulatory authority applicable to each legal issue and supports written conclusions with proper citation to the controlling authority. Recognizes the absence of controlling authority, as appropriate, and identifies other persuasive authority when it is available.
3. Prepares briefs, contracts, letters, memoranda, motions, and similar documents which are of acceptable quality (i.e., appropriate in length, style and tone, clear, free of errors in grammar, punctuation and spelling, in the proper format and neat); are persuasive, polished, thorough, well-organized, and well-reasoned; and which are completed promptly and in accordance with any deadlines set by supervisors.

_____ Substantially Exceeds Expectations

 X Meets Expectations

_____ Needs Improvement

_____ Fails Expectations

Please explain:

Mary Phillips ascertains the facts necessary to argue the Youth Service Administration's (YSA) position at post-adjudication motions. Because of the nature of the cases that she handles she responds orally, in court, more often than she is called upon to file written responses. This phenomenon fits well with her style of argument. Ms. Phillips shies away from filing written pleadings. She prefers to argue her cases orally. She is always careful to identify controlling statutory and case authority. Through her diligence, Ms. Phillips is able to avoid show cause motions being filed against YSA. She seems to be well versed on the applicable D.C. Code sections and is frequently able to operate from memory. She was very helpful to YSA when they worked on revising their revocation proceedings.

On numerous occasions she was able to get judges to issue emergency orders at the behest of YSA. The emergency orders included orders to relieve overcrowding in their facilities and release motions to allow respondents to attend football championship games and travel to YSA sponsored events. In

each of these cases YSA received the desired orders from the judges despite their frequent eleventh hour requests made to this Office.

B. ORAL PREPARATION AND PRESENTATION: This competency measures the employee's job knowledge, communication ability, adaptability, and service to the client, as reflected in his/her oral work.

Applicability: This standard applies to All Attorneys

1. Prepares matters for oral presentation so as to be sufficiently familiar with all relevant documents, facts, laws, court orders, policies, and regulations. Organizes presentation in a clear, logical, thoughtful and persuasive manner.
2. Expresses the position of the District of Columbia clearly, logically, and persuasively, and displays technique and demeanor appropriate for the forum, including the ability to think quickly and logically on his/her feet and to address unexpected situations effectively.
3. Exercises sound judgment, skill and creativity, including problem solving and negotiations where appropriate.

 X Substantially Exceeds Expectations

 Meets Expectations

 Needs Improvement

 Fails Expectations

Please explain:

Since the creation of the YSA Unit Ms. Phillips and Mr. Zirpoli have been able to head off contempt orders being issued against YSA. During the last rating period not one judge has issued a contempt order against YSA. She successfully argued against show cause orders on several occasions. In three cases judges were threatening the agency with \$1,000 a day fines. Ms. Phillips is very skilled in making her oral presentations in court. She argues her cases passionately and effectively. She generally has a good memory and is able to articulate a wealth of information to the court. She effectively represents the interest of the agency at court hearings. She is proactive. She works hard to maintain a good working relationship with the judges. Her rapport with the judges allows her to intervene in matters when judges are on the verge of issuing show cause orders. The judges allow her to contact YSA administration and social workers to determine the validity of complaints and resolve issues without further court involvement. YSA reports that she is highly supportive of their efforts to provide services to youth.

Ms. Phillips has demonstrated a comprehensive skill in interpreting and applying policies and court precedent to her arguments. Members of the judiciary have come to rely on her advice when fashioning or modifying disposition (sentencing) orders.

IV. PROFESSIONAL CONDUCT AND EFFECTIVENESS IN WORKING WITH OTHERS

Performance Standards: Applicable to All Attorneys

1. Is thoroughly familiar with applicable standards of ethical and professional responsibility and conforms to these standards. Is thoroughly familiar with the Office of Corporation Counsel policies and procedures and conforms to these policies and procedures. Exercises sound judgment in seeking supervisory or other guidance in those areas of ethical and professional conduct which present unique, unfamiliar or difficult questions.
2. Establishes and maintains productive and courteous working relationships with co-workers, agencies and individuals (including the private bar) with whom the Office has professional contact.
3. Accepts supervision and responds appropriately to constructive criticism from supervisors. Utilizes support and administrative staff services appropriately, and provides constructive feedback to support staff regarding performance. In appropriate circumstances, provides guidance and assistance to others in connection with matters outside the scope of his/her assignments.
4. Keeps interested parties adequately informed of events in assigned matters, and consults with these parties as appropriate.

Substantially Exceeds Expectations Meets Expectations
 Needs Improvement Fails Expectations

Please Explain:

The Office created a unit to handle post disposition matters where a respondent is, or is likely to be, committed to the care of DHS/YSA. As a result of the relationship that Ms. Phillips had developed with employees of YSA, staff from that agency requested that she be assigned to one of the positions. She immediately threw herself into her new assignment.

Ms. Phillips could make more of an effort to depersonalize her cases. Although she usually accepts constructive criticism from supervisors and fellow attorneys, at times she reacts negatively when a supervisor suggests a course of action which is contrary to what she feels is appropriate. Ms. Phillips has positive and productive relationships with supervisors and managers at YSA. However, at times she exhibits difficulty in respecting the role of the social workers to make clinical decisions and will express the differences in the courtroom rather than outside or prior to court. YSA reports that the lines of responsibility seem unclear to her. YSA feels that Ms. Phillips provides valuable legal assistance in representing the agency when there is a potential that a juvenile will be committed or when a juvenile is committed to the agency. The agency has noted that, at times, Ms. Phillips loses her objectivity. This has occurred during court proceedings when she has had difficulty supporting the YSA social worker's position. She tends to side with the juvenile or juvenile's attorney. YSA would prefer to work out such disagreements before they enter the courtroom. The case responsibilities, casework and legal representation need to be clear for all parties. However, YSA reports that Ms. Phillips is extremely responsive to YSA requests. She is very good with supporting YSA programs and projects that are beyond her legal role. She attends activities to show support and learn more about YSA programming.

V. OFFICE PROCEDUR

Performance standards: Applicable to All Attorneys

- 1. Maintains calendar, case files and other litigation- related material in an orderly, logical manner to minimize misplacement or loss and so others can locate information in the event of an absence or an emergency.
- 2. Follows applicable office procedures including complying with all safety and security requirements, and ensures supervisors are timely advised of his/her availability and whereabouts.

Substantially Exceeds Expectations Meets Expectations
 Needs Improvement Fails Expectations

Please Explain:

The Juvenile Section lost its Section Chief and the majority of its senior attorneys in the summer and fall of 1997. The remaining attorneys had to paper cases, staff three trial courtrooms, and try felony and misdemeanor cases while new attorneys were being trained. The effect of the attorney turnover was still felt during the current review period. The Juvenile Section has a large number of entry level attorneys. Approximately 70% of the trial attorneys were a DS-11 or DS-12 during major portions of this review period. Nonetheless the adjudication rate either stayed the same as when the "more experienced attorneys" worked for the Section or improved slightly. The attorneys in the Juvenile Section demonstrate a dedication to their job. When they see a problem they deal with it or make sure that someone else does. A recent example of their individual dedication, although after this review period, occurred when the District of Columbia government was closed because of snow. The Superior Court remained open only for arraignments. The Juvenile Section needed two attorneys to cover this assignment. Six trial attorneys and a supervisor came to work. Each attorney was concerned that no one else would be able to cover court.

Ms. Phillips frequently makes herself available to speak or meet with YSA personnel outside of normal business hours. It is not unusual for her to make and receive phone calls from her home late into the night or on weekends to try and solve problems that arise in the cases that she handles. YSA staff feel comfortable contacting her to seek her opinion during these times. Ms. Phillips has had difficulties maintaining a calendar of the cases that she is working on and the court hearings that she has attended. On numerous occasions she has spoken to her supervisor about this. Lately she has made a greater effort to keep her supervisor apprised of her YSA calendar.

VI. ADDITIONAL STANDARDS FOR LITIGATING ATTORNEYS

The following standards only apply to ACC/Litigators (civil, criminal, and administrative)

1. In consultation with the supervisor, properly evaluates the case for settlement and/or litigation, assessing the strengths and weaknesses of each side. Develops and implements litigative strategies appropriate to the case and makes litigation choices based on the relevant facts, case law and the relative strengths and weaknesses of the government's case and that of the opposing party.
2. Conducts discovery in a timely and thorough manner that is consistent with the requirements of assigned cases and ensures that information developed is directly pertinent to the litigative efforts, whether through dispositive motions or full trial preparation. Properly prepares for giving testimony in deposition and in court. Informs and consults supervisor when necessary as to the status of the litigation and any significant developments. Files dispositive and/or other motions consistent with the case strategy and developments in the litigation. Timely responds to motions filed against our clients and replies to oppositions to our motions.
3. Properly manages questions relating to settlement, including complying with all ADR requirements; timely seeking settlement authority or authority not to settle; appropriately evaluating cases for settlement; and demonstrating, proper negotiating skills and techniques.
4. Demonstrates skill in the examination of witnesses, the introduction and use of evidence, opening statements, closing arguments and other aspects of in-court litigation and exhibits a proficiency with applicable rules relating to procedure and evidence.
5. Properly manages post-trial obligations (.Timely reports to supervisors; timely files post-trial motions where appropriate; timely requests appeal or no-appeal; timely processes paperwork for payment of judgments or settlements; and timely closes out case files, including submitting forms for entry of trial and disposition data.

<input checked="" type="checkbox"/> Substantially Exceeds Expectations	<input type="checkbox"/> Meets Expectations
<input type="checkbox"/> Needs Improvement	<input type="checkbox"/> Fails Expectations

Please Explain:

Ms. Phillips immediately responds to agency and court demands. She drops everything and works on the case. It is not unusual for her to cancel leave to attend a last minute hearing when she feels that because of her special knowledge about a case that her input at the hearing would be valuable to the Office or the Court. She successfully heads off problems before they reach the "show cause" state. YSA reports that Ms. Phillips has an excellent relationship with the judges. She assists YSA with following through on court obligations. She is good with negotiating when she maintains her objectivity. She is capable of handling complex post-disposition issues that contain several major issues with little supervision.

#3

LINE ATTORNEY PERFORMANCE APPRAISAL (FY2001)

Part A. Employee Information

Employee Being Rated: Mary Phillips	Title, Grade and Step: 14/2
Office or Division: PPE/Criminal Division	Branch/Section: Juvenile Section
Status: Perm. F-T Except.	Rating Period: 10-1-00 thru 8-31-01
Type of Report : Scheduled (Annual)	Period of Supervision: From: 10/1/00 To: 08/31/01

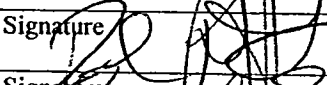

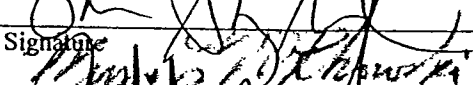
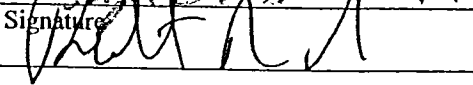

Part B. Progress Review

Rater's Signature/Date:	Employee's Signature/Date:
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Part C. Summary of Rating of Performance

Performance Element	Weight (%)	Exceeds Expectations	Meets Expectations	Needs Improvement	Fails Expectations
1. Conduct of Legal Research and Writing	16%		X		
2. Oral Preparation and Presentation	16%		X		
3. Efficiency, Productivity and Work Habits	16%	X			
4. Professional Conduct and Effectiveness	16%	X	X		
5. Office Procedures	16%	X	X		
6. Litigation Skills	20%	X			
Overall Rating		X	X		

Part D. Review/Approval Signatures

Rater Name Dave Rosenthal	Signature 	Date 1/8/02
Deputy Name Eugene Irvin	Signature 	Date 1/18/02
Senior Deputy Name Sharon Styles Anderson	Signature 	Date 1/18/02
Review Panel Name WAYNE SWITKOWSKI	Signature 	Date 1-25-02
Corporation Counsel ROBERT R. RUGSBY	Signature 	Date 1/28/02

Part E. Employee/Rater Acknowledgement

Employee Signature	Rater Signature
Date	Date

ATTORNEY
PERFORMANCE EVALUATION

Please rate the employee's performance relative to each standard. The definitions set out below for each element should be used as a benchmark for the performance level, "meets expectations."

Element 1: Conduct of Legal Research and Writing

This competency measures the employee's job knowledge, communication ability, initiative, dependability and service to the client, as reflected in his or her written work.

- A. Ascertains all facts relevant to an assignment and reviews all pertinent documents.
- B. Identifies all legal/factual issues involved and correctly analyzes them. Identifies controlling statutory, case and regulatory authority applicable to each legal issue and supports written conclusions with proper citation to the controlling authority. Recognizes the absence of controlling authority, as appropriate, and identifies other persuasive authority when it is available.
- C. Prepares briefs, contracts, letters, memoranda, motions, and similar documents which are of acceptable quality (i.e., appropriate in length, style and tone, clear, free of errors in grammar, punctuation and spelling, in proper format and neat); are persuasive, polished, thorough, well-organized, and well-reasoned; and are completed promptly and in accordance with deadlines set by supervisors and the courts.

Rating for this competency:

Exceeds Expectations

Needs Improvement

Meets Expectations

Fails Expectations

Illustrations that support the rating:

In her role as a YSA Unit attorney representatives of the agency reported that Ms. Phillips has a thorough knowledge of statutes relative to the Juvenile Justice system and that she routinely utilizes her knowledge of the statutes, regulations, and case law in her representation of the agency. She has fully immersed herself in juvenile post-adjudication law. However, Ms. Phillips shies away from writing pleadings. Instead she prefers to argue the cases orally. The judges permit her to do so. In the next year Ms. Phillips should focus on filing written pleadings in cases, especially where there is a possibility of an appeal.

During this year Ms. Phillips was able to get show cause orders discharged against YSA without a single finding of contempt against the agency. She wrote step down procedures for YSA involving Oak Hill and shelter house placements to maintain compliance with Jerry M.

Element 2: Oral Preparation and Presentation

This competency measures the employee's job knowledge, communications ability, adaptability, and service to the client, as reflected in his or her oral work.

- A. Prepares matters for oral presentation so as to be sufficiently familiar with all relevant documents, facts, laws, court orders, policies and regulations. Organizes presentation in a clear, logical, thoughtful and persuasive manner.
- B. Expresses the position of the District of Columbia clearly, logically, and persuasively, and displays technique and demeanor appropriate for the forum, including the ability to think quickly and logically on his/her feet and to address unexpected situations effectively.
- C. Exercises sound judgment, skill and creativity, including problem solving and negotiations where appropriate.

Rating for this competency:

_____ Exceeds Expectations

_____ Needs Improvement

 X Meets Expectations

_____ Fails Expectations

Illustrations that support the rating:

Ms. Phillips is dedicated to representing YSA's interests both in and out of court. YSA has provided Ms. Phillips with a cellular phone so that they can contact her at all hours of the day and on weekends. They frequently contact her during nonbusiness hours when they know that she is away from the office. They are confident that she possesses sufficient job knowledge to answer their questions and give advice on emergency issues without always having the luxury of doing research. They rely on her problem solving skills. Frequently these phone calls involve emergencies that require Ms. Phillips to contact the attorneys who represent juveniles who are in YSA's care and custody. Ms. Phillips graciously responds to the agency's requests and negotiates with the defense attorneys so that the agency can take action without fear of having a motion to show cause filed against them. Ms. Phillips is persuasive because she always casts her arguments in a way that highlights how YSA's proposals benefit the juvenile.

In her role as a YSA Unit attorney representatives of the agency reported that Ms. Phillips exercises skill and creativity. Although she is called in to handle hearings at the last minute she is typically prepared for argument. She is familiar with all relevant documents, facts, and the law necessary for her oral presentation. She argues passionately and persuasively. She routinely expresses the position of the District. However, the agency reports that there are times when her personal or professional biases impede her persuasiveness when her opinions differ from the District's or agency's position. On balance, the effort that Ms. Phillips puts into serving YSA's interests, both in and out of court, compensates for any deficiencies that she displays.

Element 3: Efficiency, Productivity and Work Habits

This competency measures the employee's initiative, use of resources, flexibility and dependability, as reflected in his or her work products and work habits.

- A. Performs work at an appropriate pace, making efficient use of available resources. Produces an appropriate quantity of work in terms of number of matters completed and length of each matter completed. Sets appropriate priorities in completing assignments, including completion of more difficult assignments first when warranted.
- B. Complies with work instructions given by supervisors. Completes written work in time to permit appropriate supervisory review in accordance with established internal procedures. Recognizes that complex, novel or sensitive issues may require additional supervisory review and submits written work accordingly. Keeps supervisors sufficiently informed of developments and difficulties in assigned matters to allow relevant supervisory involvement.
- C. Appears promptly for all scheduled matters.
- D. Accepts supervision and responds appropriately to constructive criticism, suggestions and directives related to the handling of cases assigned.

Rating for this competency:

Exceeds Expectations

Needs Improvement

Meets Expectations

Fails Expectations

Illustrations that support the rating:

Mary Phillips handles a large number of cases every week. She appears before numerous judges who schedule matters simultaneously to each other everyday. Many judges specifically request that she represent the District at their hearings and she always graciously accepts these assignments. In addition, because of staffing constraints, supervisors regularly assign her postdisposition hearings to cover at the last minute. She never balks at these assignments. She is forced to prioritize which judges and which hearings she can attend. She does so with deftness. She appears promptly for these hearings and quickly familiarizes herself with the cases.

In her role as a YSA Unit attorney, representatives of the agency reported that Ms. Phillips typically performs all assigned duties in accordance with instructions. However the agency reports that, at times she is resistant to constructive criticism and may personalize feedback. When this occurs, she may avoid the entity where there has been conflict or seek an alternative authority. However, her "recovery" time is relatively short. This is an area where she needs to be aware of and address, as it does not always serve her or the District well.

Ms. Phillips is careful to tell her supervisors when she is faced with complex, novel or sensitive issues. She meets regularly with her Section Chief and frequently alerts the Senior Deputy of issues that she feels require high-level policy changes. She shows great initiative. Daily she identifies problems with YSA's ability to comply with court orders. She contacts the agency and assists, prods, and otherwise insures that the agency is in compliance with court orders. In addition, she takes the initiative to contact

the defense bar and work out problems before they result in contempt motions.

Ms. Phillips is always willing to take on extra assignments. She has been selected to represent OCC in a Drug Grant Proposal working group, she participated in training new judges entering the Family Division, and she regularly attends NSI meetings.

**Element 4: Professional Conduct and Effectiveness
in Working with Others**

This competency measures the employee's professionalism toward peers, supervisors, support staff, the courts, and the clients; service to the client; teamwork; and integrity and trust, as reflected in his/her relationships with all whom he or she comes in contact.

- A. Is thoroughly familiar with applicable standards of ethical and professional responsibility and conforms to these standards. Is thoroughly familiar with the Office of the Corporation Counsel policies and procedures and conforms to these. Exercises sound judgment in seeking supervisory or other guidance in areas of ethical and professional conduct which present unique, unfamiliar or difficult questions.
- B. Establishes and maintains productive and courteous working relationships with co-workers, agencies and individuals (including the courts and private bar) with whom the Office has professional contact. Acts in a professional manner with and is responsive to colleagues, client agencies, public officials, and others.
- C. Accepts supervision and responds appropriately to constructive criticism from supervisors. Utilizes support and administrative staff services appropriately, and provides constructive feedback to support staff regarding performance. In appropriate circumstances, provides guidance and assistance to others in connection with matters outside the scope of his or her assignments.
- D. Keeps interested parties adequately informed of events in assigned matters, and consults with these parties as appropriate.
- E. Seeks and takes advantage of available training opportunities.

Rating for this competency:

Exceeds Expectations

Needs Improvement

Meets Expectations

Fails Expectations

Illustrations that support the rating:

Ms. Phillips has outstanding relationships with many of the judges, with attorneys at the Public Defender Service and with the private bar. In addition, she has an extremely productive working relationship with the trial attorneys in the Juvenile Section. They turn to her when they are faced with predisposition detention problems or post disposition placement issues. Attorneys feel free to stop her in the hallway, call her on the phone, or email her when they have a problem or an issue in a case that requires a specialized knowledge of postdispositional law, commitment alternatives, residential placements, or when the court orders YSA to perform novel or difficult tasks. She immediately responds to their pleas for assistance and fully immerses herself into the cases. She keeps the attorneys fully advised of her progress and she will frequently send out emails updating them on her work.

On predisposition matters, Ms. Phillips provides guidance and assistance to the attorneys who are assigned to individual cases. She is always willing to help out attorneys with their assignments. She

frequently volunteers to attend extra hearings so that the other attorneys can be freed up for assignments to other matters. Similarly, when the call went out for assistance with the NSI program, Ms. Phillips volunteered. She attends meetings and provides guidance to the members of her assigned Ward.

YSA staff considers Ms. Phillips to be a team player whom they can contact at any time for any issue. YSA personnel feel free to seek her advise and assistance on projects that go beyond the strict boundaries of the interagency MOU that funds her position. She has made herself available to YSA at all hours of the day and on weekends. She is in constant phone contact with YSA supervisors and social workers. When she is not talking to them, preparing for court, or in court, she is emailing YSA staff about cases that require attention.

Ms. Phillips is sensitive to issues of ethical and professional responsibility. She is always mindful that proposed actions by this Office or YSA may have an appearance of impropriety. She feels free to bring her concerns to her supervisors or agency personnel. While able to act independently, she appropriately informs supervisors when sensitive issues are raised or when she needs guidance.

Ms. Phillips is frequently given last minute court assignments requiring her to quickly familiarize herself with a juvenile's social factors so that she can represent the agency and our Office's position at post disposition hearings. She responds quickly to agency requests and is excellent at handling their emergency matters. She and the other YSA Unit attorney have successfully argued against judge's issuing show cause orders against the agency. In fact, she will frequently proactively identify a problem with the way that YSA is complying with a court order and she will work with the agency to bring it into compliance so that motions for show causes are not filed.

Ms. Phillips actively confers with YSA and OCC supervisors in order to resolve issues that come up in court. For instance, Mary Phillips and her supervisor met with a Deputy Director of YSA to discuss issues relating to the increase in the number of respondents that are being residentially placed. They discussed the difficulty that YSA was having because the agency was not receiving commitment orders timely. Ms. Phillips insights assisted the group with coming to meaningful and workable solutions to the problem. They agreed that the Juvenile Section would email YSA each time a post-revocation disposition hearing was set, thus giving YSA greater opportunity to prepare a case plan.

Element 5: Office Procedures

This competency measures the employee's use of resources and dependability, as reflected in his or her compliance with OCC procedures.

- A. Maintains calendar, case files, and other work-related material in an orderly, logical and accessible manner to minimize misplacement or loss and so that others could locate information in the event of an absence or an emergency.
- B. Follows applicable office procedures including compliance with all safety, risk management, and security requirements. Ensures that supervisors are timely advised of his or her availability and whereabouts.

Rating for this competency:

Exceeds Expectations

Needs Improvement

Meets Expectations

Fails Expectations

Illustrations that support the rating:

Ms. Phillips frequently makes herself available to speak or meet with YSA personnel outside of normal business hours. It is not unusual for her to make and receive phone calls from her home late into the night or on weekends to try and solve problems that arise in the cases that she handles. YSA staff feels comfortable contacting her to seek her opinion during these times. In this rating period, Ms. Phillips has been careful to take case files with her to court and make notes in court jackets.

In her role as a YSA Unit attorney representatives of the agency reported that Ms. Phillips typically juggles multiple cases and covers court for YSA with or without social workers present. Ms. Phillips handles these cases before a large number of judges who have rotated off of the Juvenile trial calendars. Ms. Phillips is able to cover these cases even though judges frequently set them for the same time of day or the same day of the week. She is careful to apprise the court of potential conflicts when hearings are set.

Supervisors can always reach Ms. Phillips by cell phone. She is frequently called and asked to take on additional last minute court assignments. She graciously, accepts these assignments whenever it is physically possible for her to do so. She has been known to run between courtrooms to ensure our presence at hearings.

Ms. Phillips volunteers to take on additional assignments. In addition to her other work Ms. Phillips volunteered to assist with NSI matters. She was assigned to a ward and attends meetings and otherwise assists the NSI team.

Element 6: Additional Standards

For
Litigating Attorneys

This competency measures particular job skills applicable to attorneys who engage in litigation, including job knowledge, communications skills, professionalism, use of resources, dependability and teamwork.

- A. In consultation with his or her supervisor, properly evaluates each case for settlement and/or litigation, assessing the strengths and weaknesses of each side. Develops and implements litigative strategies appropriate to the case and makes litigation choices based on the relevant facts, case law, and the relative strengths and weaknesses of the government's case and that of the opposing party.
- B. Conducts discovery in a timely and thorough manner that is consistent with the requirements of assigned cases. Ensures that information developed is directly pertinent to the litigation efforts, whether through dispositive motions or full trial preparation. Properly prepares for giving testimony in deposition and in court. Informs and consults supervisor when necessary as to the status of the litigation and any significant developments. Files dispositive and/or other motions consistent with case strategy and developments in the litigation. Timely responds to motions filed against our clients and replies to oppositions to our motions.
- C. Properly manages questions relating to settlement, including complying with all ADR requirements; timely seeks settlement authority or authority not to settle; appropriately evaluates cases for settlement; and demonstrates proper negotiating skills and techniques.
- D. Demonstrates skill in the examination of witnesses, the introduction and use of evidence, opening statements, closing arguments and other aspects of in-court litigation. Exhibits proficiency with applicable rules relating to procedure and evidence.
- E. Properly manages post-trial obligations. These include timely reports to supervisors, timely filing of post-trial motions where appropriate, timely requests on appeal or no-appeal, timely processing of paperwork for judgments or settlements, and timely close-out of case files, including submitting forms for entry of trial and disposition data.

Rating for this competency:

Exceeds Expectations Needs Improvement
 Meets Expectations Fails Expectations

Illustrations that support the rating:

Ms. Phillips immediately responds to agency and court demands. She is highly supportive of YSA and its programs. YSA will frequently contact her at night and on weekends about problems in cases that are set for hearing early the next week. She drops everything and works on the case. It is not unusual for her to cancel leave to attend a last minute hearing when, she feels that because of her special knowledge about a case, her input would be valuable to the Office or the Court.

Ms. Phillips has an excellent relationship with the judges. Some judges will reset matters rather than proceed without her representations. In fact, some judges have been know to call her from a hearing, on her cell phone, when she is on leave to get her input. She assists YSA with following through on court obligations. She is capable of handling complex post-disposition issues that contain several major issues with little supervision. She shows great initiative in the handling of her cases. Ms. Phillips will not

hesitate to contact any resource that may be available to solve a problem in a case. She is than able to present a comprehensive plan to the court. She is always perceived as looking out for the best interests of the juvenile. Her proactive attitude has helped YSA avoid show cause orders being issued against them. The judges and the agency rely on her for her creative resolution to placement and treatment issues.

**LINE ATTORNEY
PERFORMANCE APPRAISAL (FY2002)**

Part A. Employee Information

Employee Being Rated: Mary Phillips	Title, Grade and Step: 14/4
Office or Division: Criminal Division	Branch/Section: Juvenile Section
Status: Permanent	Rating Period: 9-1-01 through 8-31-02
Type of Report: Scheduled (Annual)	Period of Supervision: From: 9-1-01 through 8-31-02

Part B. Progress Review (Complete at time of mid-year performance review)

Rater's Signature/Date:	Employee's Signature/Date:
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Part C. Summary of Rating of Performance

Performance Element	Weight (%)	Exceeds Expectations	Meets Expectations	Needs Improvement	Fails Expectations
1. Conduct of Legal Research and Writing	16%		X		
2. Oral Preparation and Presentation	16%	X			
3. Efficiency, Productivity and Work Habits	16%	X			
4. Professional Conduct and Effectiveness	16%			X	
5. Office Procedures	16%		X		
6. Litigation Skills	20%	X			
Overall Rating			X		

Part D. Review/Approval Signatures

Rater Name Tom Gillice/ Dave Rosenthal	Signature	Date 9/3/02
Deputy Name Dave Rosenthal	Signature	Date 9/3/02
Senior Deputy Name A.T. Marrey	Signature	Date 9/27/02
Review Panel Name Rosalyn C. Groce	Signature	Date 3/25/03
Corporation Counsel Arabella Teal	Signature	Date 3/27/03

Part E. Employee/Rater Acknowledgement

Employee Signature	Rater Signature
Date 5-5-03	Date 5/5/03

**ATTORNEY
PERFORMANCE EVALUATION**

Please rate the employee's performance relative to each standard. The definitions set out below for each element should be used as a benchmark for the performance level, "meets expectations."

Element 1: Conduct of Legal Research and Writing

This competency measures the employee's job knowledge, communication ability, initiative, dependability and service to the client, as reflected in his or her written work.

- A. Ascertains all facts relevant to an assignment and reviews all pertinent documents.
- B. Identifies all legal/factual issues involved and correctly analyzes them. Identifies controlling statutory, case and regulatory authority applicable to each legal issue and supports written conclusions with proper citation to the controlling authority. Recognizes the absence of controlling authority, as appropriate, and identifies other persuasive authority when it is available.
- C. Prepares briefs, contracts, letters, memoranda, motions, and similar documents which are of acceptable quality (i.e., appropriate in length, style and tone, clear, free of errors in grammar, punctuation and spelling, in proper format and neat); are persuasive, polished, thorough, well-organized, and well-reasoned; and are completed promptly and in accordance with deadlines set by supervisors and the courts.

Rating for this competency:

Exceeds Expectations

Needs Improvement

Meets Expectations

Fails Expectations

Illustrations that support the rating:

In her role as a YSA Unit attorney representatives of the agency reported that Ms. Phillips has a thorough knowledge of statutes relative to the Juvenile Justice system and that she routinely utilizes her knowledge of the statutes, regulations, and case law in her representation of the agency. She has fully immersed herself in juvenile post-adjudication law. However, Ms. Phillips continues to shy away from writing and filing pleadings in her cases. Instead she prefers to argue the cases orally. The judges have permitted her to do so. In her last evaluation it was noted that "Ms. Phillips should focus on filing written pleadings in cases, especially where there is a possibility of an appeal." During this evaluation period Ms. Phillips continued to rely on her oral ability to convince the court of her position. She did not increase the number of pleadings filed in her caseload. With the current appellate focus on the limitations of the trial court's disposition and post-disposition authority it is even more important that substantive pleadings are filed.

Ms. Phillips alerts supervisors when she is faced with responding to a pleading or a judicial inquiry that raises a novel legal issue. For example, in one case a judge wanted to revoke a youth's probation but the probation officer refused to file an affidavit in support of the revocation because the court's disposition order assigned the monitoring of the youth's case to another agency. Ms. Phillips immediately informed

her supervisor of the issue. She researched relevant case law and appropriately relied on the case of B.P. for the proposition that the Office of the Corporation Counsel has the authority to file a petition to revoke probation even without the concurrence of the probation officer.

Element 2: Oral Preparation and Presentation

This competency measures the employee's job knowledge, communications ability, adaptability, and service to the client, as reflected in his or her oral work.

- A. Prepares matters for oral presentation so as to be sufficiently familiar with all relevant documents, facts, laws, court orders, policies and regulations. Organizes presentation in a clear, logical, thoughtful and persuasive manner.
- B. Expresses the position of the District of Columbia clearly, logically, and persuasively, and displays technique and demeanor appropriate for the forum, including the ability to think quickly and logically on his/her feet and to address unexpected situations effectively.
- C. Exercises sound judgment, skill and creativity, including problem solving and negotiations where appropriate.

Rating for this competency:

Exceeds Expectations

Needs Improvement

Meets Expectations

Fails Expectations

Illustrations that support the rating:

In her role as a YSA Unit attorney representatives of the agency reported that Ms. Phillips exercises skill and creativity. Although she is called in to handle hearings at the last minute she is typically prepared for argument. She is familiar with all relevant documents, facts, and the law necessary for her oral presentation. She argues passionately and persuasively.

Ms. Phillips' oral advocacy extends beyond her representation in Court. During this past year, she has been an active participant in developing and staffing a multi-agency committee that is charged with coming up with treatment alternatives for some of the City's most troubled youth. Her advocacy at these meetings has enabled the District to save money while simultaneously seeking to provide appropriate care and rehabilitation for children. Specifically, she set up and chaired a number of meetings with representatives from various relevant agencies in order to determine appropriate placements for children. As a consequence of those multi-disciplinary meetings, they have been able to successfully place a number of children in the District of Columbia rather than sending them to residential placements far from the City. Supervisors at YSA have reported that Ms. Phillips should try and keep in better contact with the agency about the work that she does developing alternatives to commitments.

Element 3: Efficiency, Productivity and Work Habits

This competency measures the employee's initiative, use of resources, flexibility and dependability, as reflected in his or her work products and work habits.

- A. Performs work at an appropriate pace, making efficient use of available resources. Produces an appropriate quantity of work in terms of number of matters completed and length of each matter completed. Sets appropriate priorities in completing assignments, including completion of more difficult assignments first when warranted.
- B. Complies with work instructions given by supervisors. Completes written work in time to permit appropriate supervisory review in accordance with established internal procedures. Recognizes that complex, novel or sensitive issues may require additional supervisory review and submits written work accordingly. Keeps supervisors sufficiently informed of developments and difficulties in assigned matters to allow relevant supervisory involvement.
- C. Appears promptly for all scheduled matters.
- D. Accepts supervision and responds appropriately to constructive criticism, suggestions and directives related to the handling of cases assigned.

Rating for this competency:

Exceeds Expectations

Needs Improvement

Meets Expectations

Fails Expectations

Illustrations that support the rating:

Mary Phillips handles a large number of cases every week. She appears before numerous judges who schedule matters simultaneously to each other everyday. Many judges specifically request that she represent the District at their hearings and she always graciously accepts these assignments. She is forced to prioritize which judges and which hearings she can attend. She does so with deftness. She appears promptly for these hearings.

Ms. Phillips is careful to tell her supervisors when she is faced with complex, novel or sensitive issues.

Ms. Phillips is always willing to take on extra assignments. In addition to her regular caseload, Ms. Phillips actively participates in special Office projects. For example, she volunteered for and regularly participates in NSI related activities. She was assigned to a ward and attends meetings and otherwise assists the NSI team. In addition, with the coming of the Family Court, social service agencies are striving for new approaches for handling youth who have open cases in more than one Family Court Division. Ms. Phillips has been an active participant in developing and staffing a multi-agency committee that is charged with coming up with treatment alternatives for some of the City's most trouble youth. The courts have been very receptive to the plans developed by these multi-agency committees and the plans frequently prevent a youth from being committed to the Youth Services Administration or if a youth is committed the costs of his or her rehabilitation is born by many agencies. In April 2002, Mary Phillips attended an all day retreat consisting of representatives YSA, CFSA, DCPS, OCC, PDS, DMH, CSS, a family support organization, the Casey Foundation, and several service providers. At the retreat,

protocols were established and specific tasks assigned further develop an multi-agency response to treatment of youth in the Family Court. She enthusiastically participates in both projects while handling her regular caseload.

As a consequence of her work with various agencies in the District, she was selected to represent the Office at the Citywide MAPT meetings that were mandated by the Mayor. She has become a crucial member of that team and has received letters of commendation from the chair of MAPT, recognizing her contributions.

**Element 4: Professional Conduct and Effectiveness
in Working with Others**

This competency measures the employee's professionalism toward peers, supervisors, support staff, the courts, and the clients; service to the client; teamwork; and integrity and trust, as reflected in his/her relationships with all whom he or she comes in contact.

- A. Is thoroughly familiar with applicable standards of ethical and professional responsibility and conforms to these standards. Is thoroughly familiar with the Office of the Corporation Counsel policies and procedures and conforms to these. Exercises sound judgment in seeking supervisory or other guidance in areas of ethical and professional conduct which present unique, unfamiliar or difficult questions.
- B. Establishes and maintains productive and courteous working relationships with co-workers, agencies and individuals (including the courts and private bar) with whom the Office has professional contact. Acts in a professional manner with and is responsive to colleagues, client agencies, public officials, and others.
- C. Accepts supervision and responds appropriately to constructive criticism from supervisors. Utilizes support and administrative staff services appropriately, and provides constructive feedback to support staff regarding performance. In appropriate circumstances, provides guidance and assistance to others in connection with matters outside the scope of his or her assignments.
- D. Keeps interested parties adequately informed of events in assigned matters, and consults with these parties as appropriate.
- E. Seeks and takes advantage of available training opportunities.

Rating for this competency:

Exceeds Expectations

Needs Improvement

Meets Expectations

Fails Expectations

Illustrations that support the rating:

Mary Phillips continues to enjoy an outstanding relationship with many of the judges and defense attorneys. She makes herself available to YSA at all hours of the day and on weekends. She is in constant phone contact with YSA supervisors and social workers. When she is not talking to them, preparing for court, or in court, she is emailing YSA staff about cases that require attention.

Ms. Phillips is frequently given last minute court assignments requiring her to quickly familiarize herself with a juvenile's social factors so that she can represent the agency and our Office's position at post disposition hearings. She responds quickly to agency requests and is excellent at handling their emergency matters. Although in her role as an YSA Unit attorney representatives of the agency reported that Ms. Phillips typically performs all assigned duties in accordance with instructions there are times when her personal or professional biases impede her persuasiveness. YSA workers have complained that Ms. Phillips was argumentative and raised her voice at them. These outbursts leave YSA staff feeling that she is not advocating for them. They report that, at times, she personalizes feedback. When this occurs,

she may avoid the person where there has been conflict or seek an alternative authority. However, her "recovery" time is relatively short. This is an area where she needs to be aware of and address, as it does not always serve her or the District well.

Ms. Phillips has been counseled on appropriate methods for responding to authority. She personalizes disagreements over how a case should be handled or when presented with constructive criticism. Recently, in two separate conversations with a supervisor regarding her actions in court, she began screaming at the supervisor questioning her. On both occasions she hurled personal insults at the supervisor in an attempt to deflect the conversation away from her actions. In both cases employees and others in the Office could hear her ranting. Conflict with supervisors occurs because Ms. Phillips often fails to consider that in recommending appropriate dispositions, the Office has a dual role: (1) public safety and (2) care and rehabilitation of the respondent. To this end, her philosophical perspective on dispositions is not entirely consistent with the Section's dual role. Her penchant for liberal dispositions frequently forces the Section to turn to others for help in serious cases where there is a belief that the respondent poses a threat to community safety. Despite instructions from the Section Chief on more than one occasion, she continues to formulate opinions regarding dispositions in cases without discussion with the ACC who prosecuted the case or she inserts herself into pretrial matters that are assigned to other attorneys without those attorneys' consent and without full knowledge of what is contained in the Office's case files.

In addition, the Juvenile Section maintains a calendar of hearing dates for judges who have rotated off of the Juvenile Trial Calendars. On numerous occasions Ms. Phillips was told that she must list in the calendar all of the cases in which she is scheduled to appear. Ms. Phillips compliance with this requirement is spotty.

Ms. Phillips seeks and takes advantage of legal training sessions. She has attended 65.5 training hours. These courses included the National Conference on Juvenile Justice, Views from the Bench: Criminal, and Developing Local Systems of Care for Children.

Element 5: Office Procedures

This competency measures the employee's use of resources and dependability, as reflected in his or her compliance with OCC procedures.

- A. Maintains calendar, case files, and other work-related material in an orderly, logical and accessible manner to minimize misplacement or loss and so that others could locate information in the event of an absence or an emergency.
- B. Follows applicable office procedures including compliance with all safety, risk management, and security requirements. Ensures that supervisors are timely advised of his or her availability and whereabouts.

Rating for this competency:

_____ Exceeds Expectations

_____ Needs Improvement

 X Meets Expectations

_____ Fails Expectations

Illustrations that support the rating:

Ms. Phillips frequently makes herself available to speak or meet with YSA personnel outside of normal business hours. It is not unusual for her to make and receive phone calls from her home late into the night or on weekends to try and solve problems that arise in the cases that she handles. YSA staff feels comfortable contacting her to seek her opinion during these times.

In her role as a YSA Unit attorney representatives of the agency reported that Ms. Phillips typically juggles multiple cases and covers court for YSA with or without social workers present. Ms. Phillip handles these cases before a large number of judges who have rotated off of the Juvenile trial calendars. Ms. Phillips is able to cover these cases even though judges frequently set them for the same time of day or the same day of the week. She is careful to apprise the court of potential conflicts when hearings are set.

Supervisors can always reach Ms. Phillips by cell phone. She is frequently called and asked to take on additional last minute court assignments. She graciously, accepts these assignments whenever it is physically possible for her to do so. She has been known to run between courtrooms to ensure our presence at hearings. However, though she will assist with dispositions, she rarely makes herself available to supervisors to assist in duties such as papering which are handled by all other Section attorneys, including the other attorney who is assigned to the YSA Unit.

**Element 6: Additional Standards
For
Litigating Attorneys**

This competency measures particular job skills applicable to attorneys who engage in litigation, including job knowledge, communications skills, professionalism, use of resources, dependability and teamwork.

- A. In consultation with his or her supervisor, properly evaluates each case for settlement and/or litigation, assessing the strengths and weaknesses of each side. Develops and implements litigative strategies appropriate to the case and makes litigation choices based on the relevant facts, case law, and the relative strengths and weaknesses of the government's case and that of the opposing party.
- B. Conducts discovery in a timely and thorough manner that is consistent with the requirements of assigned cases. Ensures that information developed is directly pertinent to the litigation efforts, whether through dispositive motions or full trial preparation. Properly prepares for giving testimony in deposition and in court. Informs and consults supervisor when necessary as to the status of the litigation and any significant developments. Files dispositive and/or other motions consistent with case strategy and developments in the litigation. Timely responds to motions filed against our clients and replies to oppositions to our motions.
- C. Properly manages questions relating to settlement, including complying with all ADR requirements; timely seeks settlement authority or authority not to settle; appropriately evaluates cases for settlement; and demonstrates proper negotiating skills and techniques.
- D. Demonstrates skill in the examination of witnesses, the introduction and use of evidence, opening statements, closing arguments and other aspects of in-court litigation. Exhibits proficiency with applicable rules relating to procedure and evidence.
- E. Properly manages post-trial obligations. These include timely reports to supervisors, timely filing of post-trial motions where appropriate, timely requests on appeal or no-appeal, timely processing of paperwork for judgments or settlements, and timely close-out of case files, including submitting forms for entry of trial and disposition data.

Rating for this competency:

Exceeds Expectations

Needs Improvement

Meets Expectations

Fails Expectations

Illustrations that support the rating:

Ms. Phillips willingness to go the extra yard for the juveniles she believes in makes her an extremely effective advocate. She is a person who knows the system and the people in it. She uses this knowledge to accomplish the goals in her cases and keep the Youth Services Administration (YSA) in compliance with orders issued by the Court. When a judge issues a show cause order she immediately contacts the agency, assists them in preparing their defense and then goes to court, frequently with the underlying problem resolved. She then forcefully and successfully argues that the show cause be discharged. For example, in P.T. Judge Hedge issued a show cause order against YSA. The issue was a vendor did not honor a clothing voucher issued by YSA to the respondent and so the youth was unable to obtain clothing. The judge issued the show cause and the order came to Ms. Phillips' attention. Ms. Phillips immediately

contacted agency representatives to apprise them of the show cause order and to explain the underlying problem that led to its issuance. Separately, there was problem involving the respondent's placement. The agency corrected the voucher problem and with Ms. Phillips' efforts an alternative placement was located. Ms. Phillips then requested an emergency hearing to apprise the Court of the revised placement plans. She used the emergency hearing as an opportunity to inform the Court that the voucher problem was corrected and the Court discharged the show cause two weeks prior to the deadline stated in the show cause order.

Ms. Phillips cares deeply about the juveniles whose cases she handles, and has access to knowledge about every resource available to help them in the District of Columbia. Judges who share her philosophy regarding community placements welcome her to their courtrooms as an effective force for placing and servicing a child's needs. During this rating period, Ms. Phillips became involved in the new Multi-Agency Planning Team (MAPT) process. MAPT is a D.C. initiative to develop coordinated community-based treatment alternatives for children who otherwise might be placed in residential care. Following the MAPT guidelines, Ms. Phillips referred delinquency cases to the MAPT panels when she felt that their expertise could be unitized in crafting a treatment plan. After the MAPT panels met, Ms. Phillips successfully argued their recommendations to the trial court at disposition hearings.

Ms. Phillips immediately responds to agency and court demands. She is supportive of YSA and its programs. YSA will frequently contact her at night and on weekends about problems in cases that are set for hearing early the next week. She drops everything and works on the case.

Ms. Phillips has an excellent relationship with the judges. Some judges will reset matters rather than proceed without her representations. In fact, some judges have been known to call her on her cell phone to get her input at a hearing when she is on leave. Judge Bowers, in particular, avails himself of her willingness to conduct the hearings by phone and has called her when he knew that she was on leave or otherwise away from the Office. She conducted these hearings by phone freeing up other attorneys to represent the Office before other judges. She assists YSA with following through on court obligations. She is capable of handling complex post-disposition issues that contain several major issues with little supervision. She shows great initiative in the handling of her cases. Ms. Phillips will not hesitate to contact any resource that may be available to solve a problem in a case. She is then able to present a comprehensive plan to the court. Her proactive attitude has helped YSA avoid show cause orders being issued against them. The judges and the agency rely on her for her creative resolution to placement and treatment issues.

**LINE ATTORNEY
PERFORMANCE APPRAISAL (FY2003)**

Part A. Employee Information

Employee Being Rated: Mary V. Phillips	Title, Grade and Step: 14/4
Office or Division: Criminal Division	Branch/Section: Juvenile Section
Status:	Rating Period: 9-1-02 through 8-31-03
Type of Report: Scheduled (Annual)	Period of Supervision: From: 9-1-02 through 8-31-03

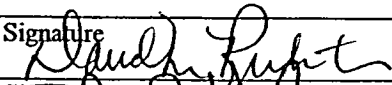

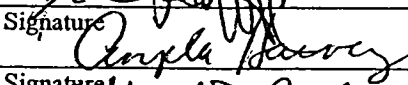
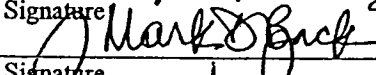
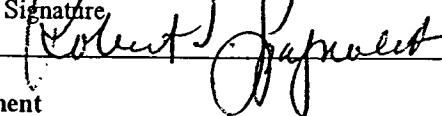
Part B. Progress Review (Complete at time of mid-year performance review)

Rater's Signature/Date:	Employee's Signature/Date:
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Part C. Summary of Rating of Performance

Performance Element	Weight (%)	Exceeds Expectations	Meets Expectations	Needs Improvement	Fails Expectations
1. Conduct of Legal Research and Writing	16%		X		
2. Oral Preparation and Presentation	16%	X			
3. Efficiency, Productivity and Work Habits	16%		X		
4. Professional Conduct and Effectiveness	16%			X	
5. Office Procedures	16%			X	
6. Litigation Skills	20%	X			
Overall Rating				X	

Part D. Review/Approval Signatures

Rater Name: David Rubenstein*	Signature: 	Date: 11/18/03
Deputy Name: Dave Rosenthal	Signature: 	Date: 11/18/03
Senior Deputy Name: Angela Harvey	Signature: 	Date: 11/19/03
Review Panel Name:	Signature: 	Date: 12/9/03
Corporation Counsel: Robert J. Spagnoletti	Signature: 	Date: 12/17/03

Part E. Employee/Rater Acknowledgement

Employee Signature	Rater Signature
Date	Date

* Ms. Phillips was detailed to the Department of Mental Health, Office of the General Counsel on May 22, 2003. David Norman, Deputy General Counsel of the Department of Mental Health, served as her supervisor from May 22, 2003 through August 31, 2003. As her supervisor for less than 120 days during the 2002-03 rating period, Mr. Norman presented this advisory rating to Ms. Phillips as her official rating pursuant to Chapter 36 of the D.C. Personnel Regulations, Sec. 3604.2.

**ATTORNEY
PERFORMANCE EVALUATION**

Please rate the employee's performance relative to each standard. The definitions set out below for each element should be used as a benchmark for the performance level, "meets expectations."

Element 1: Conduct of Legal Research and Writing

This competency measures the employee's job knowledge, communication ability, initiative, dependability and service to the client, as reflected in his or her written work.

- A. Ascertains all facts relevant to an assignment and reviews all pertinent documents.
- B. Identifies all legal/factual issues involved and correctly analyzes them. Identifies controlling statutory, case and regulatory authority applicable to each legal issue and supports written conclusions with proper citation to the controlling authority. Recognizes the absence of controlling authority, as appropriate, and identifies other persuasive authority when it is available.
- C. Prepares briefs, contracts, letters, memoranda, motions, and similar documents which are of acceptable quality (i.e., appropriate in length, style and tone, clear, free of errors in grammar, punctuation and spelling, in proper format and neat); are persuasive, polished, thorough, well-organized, and well-reasoned; and are completed promptly and in accordance with deadlines set by supervisors and the courts.

Rating for this competency:

Exceeds Expectations

Needs Improvement

Meets Expectations

Fails Expectations

Illustrations that support the rating:

The following applies to the period between September 1, 2002 and May 21, 2003, while assigned to OCC's Juvenile Section:

In her role as a Youth Services Administration (YSA) Unit attorney, representatives of YSA reported that Ms. Phillips has a strong knowledge of statutes, regulations, court rules and case law relevant to the Juvenile Justice system and that she uses her knowledge of the statutes, regulations, and case law in her representation of the agency. However, as also noted during the previous two rating periods, Ms. Phillips continues to shy away from writing and filing pleadings in her cases. Instead, she prefers to argue the cases orally, and the judges have permitted her to do so. In her FY2001 evaluation it was noted "Ms. Phillips should focus on filing written pleadings in cases, especially where there is a possibility of an appeal." During the FY2002 evaluation period, this concern was again raised--her supervisor wrote: "Ms. Phillips continued to rely on her oral ability to convince the court of her position. She did not increase the number of pleadings filed in her caseload. With the current appellate focus on the limitations of the trial court's disposition and post-disposition authority it is even more important that substantive pleadings are filed." Despite two consecutive evaluation periods where this was raised, during the

FY2003 period Ms. Phillips continued to rely on responding orally to written motions, and did not make greater use of written pleadings.

To her credit, Ms. Phillips continued to successfully defend YSA through this rating period, despite her reliance on oral versus written arguments. In a number of Motions to Show Cause, Ms. Phillips defended YSA and, as a result, no orders for contempt were entered in cases that Ms. Phillips handled.

Element 2: Oral Preparation and Presentation

This competency measures the employee's job knowledge, communications ability, adaptability, and service to the client, as reflected in his or her oral work.

- A. Prepares matters for oral presentation so as to be sufficiently familiar with all relevant documents, facts, laws, court orders, policies and regulations. Organizes presentation in a clear, logical, thoughtful and persuasive manner.
- B. Expresses the position of the District of Columbia clearly, logically, and persuasively, and displays technique and demeanor appropriate for the forum, including the ability to think quickly and logically on his/her feet and to address unexpected situations effectively.
- C. Exercises sound judgment, skill and creativity, including problem solving and negotiations where appropriate.

Rating for this competency:

Exceeds Expectations

Needs Improvement

Meets Expectations

Fails Expectations

Illustrations that support the rating:

The following applies to the period between September 1, 2002 and May 21, 2003, while assigned to OCC's Juvenile Section:

In her role as a YSA Unit attorney, representatives of YSA reported that Ms. Phillips defends the agency skillfully. Although she is called in to handle hearings at the last minute she is typically prepared for argument. She is familiar with all relevant documents, facts, and the law necessary for her oral presentation. Moreover, her high degree of familiarity with the inner workings of YSA and her child-serving agencies allow her to navigate these hearings successfully, even when she has not had substantial time to prepare in advance of a hearing. Ms. Phillips argues passionately and persuasively. Indeed, as noted above, during this rating period Ms. Phillips successfully defended YSA in a number of Motions to Show Cause. The result of her advocacy was that YSA was not held in contempt in any of these matters.

Ms. Phillips's oral advocacy extends beyond her representation in Court. It is not unusual for Ms. Phillips to become involved in a matter where a District agency, or multiple agencies, failed to put certain programs or services in place--exposing the District to potential liability or contempt. In these instances, Ms. Phillips will use her skills as an advocate to encourage YSA or other District agencies to take appropriate and immediate steps to remedy these shortfalls. Ms. Phillips is not the least bit shy about getting involved in these situations and about negotiating with the various agencies to bring about a desired outcome. To this end, Ms. Phillips's advocacy skills and her strong knowledge of the various agencies and how they interface serve her well. Moreover, this often serves YSA well in that such efforts may prevent the filing of a Motion to Show Cause or may enable the agency to be in compliance by the time such motion is before the Court for litigation.

Element 3: Efficiency, Productivity and Work Habits

This competency measures the employee's initiative, use of resources, flexibility and dependability, as reflected in his or her work products and work habits.

- A. Performs work at an appropriate pace, making efficient use of available resources. Produces an appropriate quantity of work in terms of number of matters completed and length of each matter completed. Sets appropriate priorities in completing assignments, including completion of more difficult assignments first when warranted.
- B. Complies with work instructions given by supervisors. Completes written work in time to permit appropriate supervisory review in accordance with established internal procedures. Recognizes that complex, novel or sensitive issues may require additional supervisory review and submits written work accordingly. Keeps supervisors sufficiently informed of developments and difficulties in assigned matters to allow relevant supervisory involvement.
- C. Appears promptly for all scheduled matters.
- D. Accepts supervision and responds appropriately to constructive criticism, suggestions and directives related to the handling of cases assigned.

Rating for this competency:

Exceeds Expectations

Needs Improvement

Meets Expectations

Fails Expectations

Illustrations that support the rating:

The following applies to the period between September 1, 2002 and May 21, 2003, while assigned to OCC's Juvenile Section:

During the bulk of the rating period, Ms. Phillips and the one other YSA Unit attorney were assigned to handle most of the cases before the Judges no longer sitting on a juvenile trial calendar. In this regard, Ms. Phillips appeared before numerous judges, some of who scheduled matters simultaneously to each other. Ms. Phillips generally appeared promptly for these hearings or notified the court if she would be delayed due to a conflicting hearing.

Ms. Phillips is often recognized by other District agencies for her passion and commitment to improving the quality of services offered to youth in the various "systems." To this end, in January of 2003, Ms. Phillips attended a week-long conference on building systems of care for child mental health services, at the invitation and expense of the Department of Mental Health. Ms. Phillips enthusiastically participates in such projects. Moreover, her involvement gives her greater familiarity with many of the District's child-serving agencies—a familiarity that can be used to assist her as she attempts to navigate the web of bureaucracy that often impedes the effective delivery of services in the juvenile justice system. Though Ms. Phillips interest in these areas is commendable and has some notable benefit to her work in the Juvenile Section, at times Ms. Phillips's desire to focus substantial time on such projects seems to take priority over the Section's goals and priorities. Thus, when her supervisors ask her to work on a project that is more directly related to the work of the Section, or when supervisors seek ACC's to assist in papering or other critical Section functions, Ms. Phillips seems to place a greater emphasis on working on the projects that she prefers, rather than those that are critical to the Section's day-to-day functioning.

Indeed, during the rating period, Ms. Phillips never offered to assist in papering during the week when the Section was short-staffed. Thus, while Ms. Phillips's passion for working more on the programmatic or service-delivery side of the child welfare and juvenile justice systems is, indeed, most admirable, she must be mindful of the primary functions of the Section to which she is assigned and must demonstrate greater willingness to assist with critical legal tasks as long as she is assigned to the Juvenile Section, regardless of whether she enjoys the primary tasks that the Section performs.

Notwithstanding the above-referenced concerns, Ms. Phillips continued to serve, overall, as an effective advocate for YSA during the portion of the rating period in which she was assigned to the Juvenile Section. Ms. Phillips is known for arriving at the office early and staying late to work on her cases or projects. Indeed, particularly in those cases that Ms. Phillips has identified as a priority for her attention, she is fully committed to working tirelessly to affect her desired outcome.

**Element 4: Professional Conduct and Effectiveness
in Working with Others**

This competency measures the employee's professionalism toward peers, supervisors, support staff, the courts, and the clients; service to the client; teamwork; and integrity and trust, as reflected in his/her relationships with all whom he or she comes in contact.

- A. Is thoroughly familiar with applicable standards of ethical and professional responsibility and conforms to these standards. Is thoroughly familiar with the Office of the Corporation Counsel policies and procedures and conforms to these. Exercises sound judgment in seeking supervisory or other guidance in areas of ethical and professional conduct which present unique, unfamiliar or difficult questions.
- B. Establishes and maintains productive and courteous working relationships with co-workers, agencies and individuals (including the courts and private bar) with whom the Office has professional contact. Acts in a professional manner with and is responsive to colleagues, client agencies, public officials, and others.
- C. Accepts supervision and responds appropriately to constructive criticism from supervisors. Utilizes support and administrative staff services appropriately, and provides constructive feedback to support staff regarding performance. In appropriate circumstances, provides guidance and assistance to others in connection with matters outside the scope of his or her assignments.
- D. Keeps interested parties adequately informed of events in assigned matters, and consults with these parties as appropriate.
- E. Seeks and takes advantage of available training opportunities.

Rating for this competency:

_____ Exceeds Expectations

___X___ Needs Improvement

_____ Meets Expectations

_____ Fails Expectations

Illustrations that support the rating:

The following applies to the period between September 1, 2002 and May 21, 2003, while assigned to OCC's Juvenile Section:

As noted during the previous rating period, Ms. Phillips continues to enjoy an outstanding relationship with many of the judges and defense attorneys. She also continued to be available to YSA at all hours of the day and on weekends. Indeed, Ms. Phillips maintained substantial contact with YSA supervisors and caseworkers--and often with staff from other agencies, such as DCPS, CFSA and DMH--when they were involved or needed to be involved in a case.

Ms. Phillips is frequently given last minute court assignments requiring her to quickly familiarize herself with a juvenile's social factors so that she can represent YSA and OCC's position at post disposition hearings. She responds quickly to YSA requests for representation and thinks quickly on her feet. In her role as an YSA Unit attorney, representatives of YSA reported that Ms. Phillips typically performs all assigned duties in accordance with instructions; however, they also noted that there are times when Ms. Phillips's personal or professional biases interfere with her level of effectiveness. Some YSA caseworkers and supervisors have complained that Ms. Phillips was argumentative and, as a result, some YSA staff indicated that they prefer not to involve her in their cases. These interpersonal challenges have been raised with Ms. Phillips by previous supervisors and YSA senior managers in the past and continued to be

of some concern during the instant rating period. Such interpersonal disputes yield tension between OCC and YSA and may adversely impact OCC's effectiveness in representing that agency.

In reference to her predilection toward interpersonal conflicts, on her previous evaluation, Ms. Phillips's supervisor wrote: "Ms. Phillips has been counseled on appropriate methods for responding to authority. She personalizes disagreements over how a case should be handled or when presented with constructive criticism. Recently, in two separate conversations with a supervisor regarding her actions in court, she began screaming at the supervisor questioning her. On both occasions she hurled personal insults at the supervisor in an attempt to deflect the conversation away from her actions. In both cases employees and others in the Office could hear her ranting. Conflict with supervisors occurs because Ms. Phillips often fails to consider that in recommending appropriate dispositions, the Office has a dual role: (1) public safety and (2) care and rehabilitation of the respondent. To this end, her philosophical perspective on dispositions is not entirely consistent with the Section's dual role." Her prior evaluation further stated: "[d]espite instructions from the Section Chief on more than one occasion, she continues to formulate opinions regarding dispositions in cases without discussion with the ACC who prosecuted the case or she inserts herself into pretrial matters that are assigned to other attorneys without those attorneys' consent and without full knowledge of what is contained in the Office's case files." These concerns, as well as other interpersonal disputes, continued to be a substantial problem during the instant rating period.

For example, during the instant rating period Ms. Phillips became involved in a situation where she reversed the papering decision of another ACC and a supervisor and, in the process, engaged in a conversation with a probation officer in which Ms. Phillips, unsolicited, made personally demeaning and insulting comments about the ACC who's decision she was reversing. As a result of this situation, a felony case was no papered, contrary to the Section's well-established written policy. Ms. Phillips's extremely derogatory personal remarks about her colleague to the probation officer--someone with whom the Section interacts on nearly a daily basis--reflected negatively upon Ms. Phillips and OCC. A similar situation occurred when Ms. Phillips, who was upset that an ACC from another Section would not succumb to Ms. Phillips's attempts to have a case no papered, stated to a police officer "Fuck that bitch"--in reference to the other ACC. This was said in the presence of other staff and reflected unprofessionally upon OCC and Ms. Phillips.

As noted in her previous evaluation, Ms. Phillips seems to have a philosophical bent that may not be consistent with the Section's primary duty--prosecution. That, in itself, is certainly not a bar to successfully functioning in the Section. However, if Ms. Phillips is not able to set aside her personal philosophy, to the extent that it interferes with the Section's duties, she may continue to encounter situations similar to those that have been identified in this and past rating periods. Indeed, it is not only critical to an ACC's successful functioning in the Section that he or she be able to set aside personal philosophies that may be incongruous with the Section's duties, it is incumbent upon all attorneys to zealously and effectively represent his or her client. In the context of serving as a prosecutor, it is thus critical that crime victims and the public at large are properly represented, and an ACC's failure to comport with this duty is not only a breach of his or her duty to the Office, but has serious ethical implications as well. Ms. Phillips's decision to no paper the case that was discussed in the paragraph above is one example of such a breach, and the consequences of that decision not only implicated a breach of her duty to zealously represent the Section's "clients," it also had far-reaching consequences for the juvenile who was inappropriately left without needed services. Indeed, within a day of her case being indefensibly no papered, the same youth was involved in another dangerous situation that resulted in her emergency psychiatric hospitalization and subsequently was arrested for another offense.

Ms. Phillips is an experienced attorney and, at times, she may allow this experience to interfere with her ability to accept supervision and critique. At the outset of the rating period, Ms. Phillips clearly articulated her resistance to accept supervision from the Section's designated supervisor. Indeed, during a discussion in which her supervisor was checking on the status of a Motion to Show Cause, Ms. Phillips stated that she had been doing such motions for years and that she did not need her supervisor to check on her progress. When her supervisor explained that he was merely touching base to see where things stood and that he was ultimately accountable to the Corporation Counsel for all of the legal work of the Section, Ms. Phillips continued to protest his inquiry and refused to discuss the matter any further. Though this is just one example, Ms. Phillips continued this pattern throughout the period of supervision—either bypassing her direct supervisor or being confrontational when he attempted to discuss virtually anything with her. Indeed, Ms. Phillips seemed purposefully obfuscatory, even through the simplest of tasks. This pattern of oppositional behavior is not unique to this rating period and often impeded her ability to effectively accept feedback and direction.

Despite her recurring problems with interpersonal relations, Ms. Phillips has the ability to get along with others, when she so chooses. Indeed, Ms. Phillips maintains a very positive relationship with all of the Section's support staff and with a number of the attorneys. It is important to note, however, that tenor of these professional relationships rests largely on whether Ms. Phillips opts to maintain a positive rapport with the particular individual. Indeed, one day Ms. Phillips may be friendly and courteous with a colleague, and the next, she may have professional or philosophical disagreement with that colleague, which she will personalize. As a result, Ms. Phillips may give that colleague the "cold shoulder," may opt to ignore her colleague completely, or may be openly hostile toward her colleague. This will generally continue until Ms. Phillips can move on, which may be a matter of days, weeks or months. Indeed, some colleagues have reported receiving the "silent treatment" from Ms. Phillips for up to six months. This not only places the Section at risk for having a negative impact on its work, but also yields considerable interpersonal tension, adversely affecting the day-to-day work environment.

To her credit, when Ms. Phillips takes a liking to a staff member, she is very supportive, complimentary, and gracious. Indeed, during the rating period, one member of the support staff was so grateful for Ms. Phillips's kindness to her, that she purchased a gift to show her appreciation. Similarly, Ms. Phillips demonstrated her support of a new ACC during the rating period by sending out a congratulatory email to the entire Section after the new ACC won her first trial. More of this type of a team-oriented attitude would bode well for Ms. Phillips and would likely reduce the tension that she has brought to the work environment.

Ms. Phillips seeks and takes great advantage of legal and non-legal training sessions. She earned substantially more training hours than required during the rating period. This included such conferences as annual Conference of the Children's Defense Fund, the Conference on Developing Local Mental Health Systems of Care for Children, and a host of other topics. Indeed, Ms. Phillips recognizes and takes great advantage of the opportunity for professional development.

Element 5: Office Procedures

This competency measures the employee's use of resources and dependability, as reflected in his or her compliance with OCC procedures.

- A. Maintains calendar, case files, and other work-related material in an orderly, logical and accessible manner to minimize misplacement or loss and so that others could locate information in the event of an absence or an emergency.
- B. Follows applicable office procedures including compliance with all safety, risk management, and security requirements. Ensures that supervisors are timely advised of his or her availability and whereabouts.

Rating for this competency:

Exceeds Expectations

Needs Improvement

Meets Expectations

Fails Expectations

Illustrations that support the rating:

The following applies to the period between September 1, 2002 and May 21, 2003, while assigned to OCC's Juvenile Section:

In her role as a YSA Unit attorney, representatives of YSA reported that Ms. Phillips typically juggles multiple cases and covers hearings for YSA at the agency's request. Ms. Phillips handles cases before a large number of judges who have rotated off of the Juvenile trial calendars and is often called upon to cover a case without substantial time to prepare or without having a great amount of information available in advance of the hearing. Nonetheless, Ms. Phillips thinks quickly on her feet and generally ascertains the necessary information to respond effectively. Moreover, the Judges before whom she regularly appears know that they can count on Ms. Phillips to do the necessary follow-up work to assure that the identified problems are adequately and timely addressed after the hearing. In one case, for example, Judge Nan Shuker specifically asked that Ms. Phillips make inquiries into the viability of various placements for a particular juvenile because the Judge trusted that Ms. Phillips was more reliable than the assigned social worker or the defense attorney.

However, as noted earlier, and as pointed out during Ms. Phillips's FY2002 evaluation: "she rarely makes herself available to supervisors to assist in duties such as papering which are handled by all other Section attorneys, including the other attorney who is assigned to the YSA Unit." In this regard, there continues to be room for improvement. Moreover, since this has been pointed out as an area of concern in the previous evaluation periods, Ms. Phillips should make extra efforts to attend to this concern in the future.

In addition, Ms. Phillips has had a number of problems related to office administrative functions, such as properly annotating case jacket notes and recording upcoming hearings in the Juvenile Section's centralized "MUSH" (post-disposition) calendar. In regard to the latter, this was also noted in Ms. Phillips' FY2002 evaluation, which stated: "[o]n numerous occasions Ms. Phillips was told that she must list in the calendar all of the cases in which she is scheduled to appear. Ms. Phillips compliance with this requirement is spotty." Moreover, this requirement was reiterated to all staff in a December 2002

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memorandum and in a conversation between Ms. Phillips and her supervisor when she indicated that she would be absent for an extended period of time. During that conversation, Ms. Phillips was told quite clearly to make sure that all of her future hearing dates were notated in the designated "MUSH" calendar, so that the Section would know which hearings to cover in her absence. Notwithstanding all of these efforts to remind Ms. Phillips of this administrative requirement, she failed to note her hearings as required and, as result, some hearings were missed. While an occasional oversight in this regard is understandable, this has emerged as a pattern for Ms. Phillips—one which she has been encouraged time and time again, over more than one rating period, to correct.

As indicated above, a similar problem exists in relation to Ms. Phillips's failure to properly annotate notes kept in the jackets of cases that she handles. Indeed, there is a long-standing policy that is both well known among the attorneys and is documented in the Section's Procedures Manual. This policy requires that attorneys keep notes regarding hearings in each case jacket and that attorneys similarly document their out-of-court actions and important conversations in the jacket's running notes. A review of some of Ms. Phillips's case jackets during the rating period illustrated a substantial deficit in keeping her case notes updated—both in regard to in court activities, as well as out-of-court activities in the cases. This requirement is important because other attorneys must stand in when their colleagues are unavailable, thus needing to know the most recent status and history of the case. Moreover, this is critical to ensure that all hearings and out-of-court actions that have been taken are well documented. Overall, Ms. Phillips's case jackets failed to memorialize what took place at hearings she attended, failed to document the concerns that needed to be addressed or problems that needed to be resolved in advance of the next hearing, and failed to document what actions Ms. Phillips had taken out of court to resolve outstanding problems. Indeed, though it was likely that Ms. Phillips had taken some action in these cases, the lack of documentation made it impossible to know what had occurred and what still needed to be done to resolve any issues prior to the next hearing date. In a number of these cases, Ms. Phillips had told other attorneys that Judges had asked or ordered her to do certain things by the next hearing date. Because of the lack of adequate notes, in her absence, attorneys were unable to determine what Ms Phillips had done and, more importantly, what still needed to be done. In addition, many of her case jackets did not contain a notation of the next hearing date. This, coupled with Ms. Phillips's failure to properly notate the Section's "MUSH" calendar, often made it very difficult for attorneys to determine when the next hearing was scheduled.

As with the occasional oversight in notating the "MUSH" calendar, the occasional deficit in case notes is generally understandable. However, like her failure to properly notate the MUSH calendar, Ms. Phillips's deficiencies in properly documenting in her case jackets was so substantial and far reaching that it rose to more than an occasional oversight. Indeed, as noted earlier, these deficiencies were so substantial that it placed Ms. Phillips and OCC at risk for serious consequences for either failing to appear at hearings or failing to take action in a case that was either specifically ordered or was a logical and responsible outcome of the last hearing. The seriousness of these deficiencies, coupled with Ms. Phillips substantial experience in the Section, brings these problems to a level of seriousness that requires a rating of "needs improvement" in this category.

**Element 6: Additional Standards
For
Litigating Attorneys**

This competency measures particular job skills applicable to attorneys who engage in litigation, including job knowledge, communications skills, professionalism, use of resources, dependability and teamwork.

- A. In consultation with his or her supervisor, properly evaluates each case for settlement and/or litigation, assessing the strengths and weaknesses of each side. Develops and implements litigative strategies appropriate to the case and makes litigation choices based on the relevant facts, case law, and the relative strengths and weaknesses of the government's case and that of the opposing party.
- B. Conducts discovery in a timely and thorough manner that is consistent with the requirements of assigned cases. Ensures that information developed is directly pertinent to the litigation efforts, whether through dispositive motions or full trial preparation. Properly prepares for giving testimony in deposition and in court. Informs and consults supervisor when necessary as to the status of the litigation and any significant developments. Files dispositive and/or other motions consistent with case strategy and developments in the litigation. Timely responds to motions filed against our clients and replies to oppositions to our motions.
- C. Properly manages questions relating to settlement, including complying with all ADR requirements; timely seeks settlement authority or authority not to settle; appropriately evaluates cases for settlement; and demonstrates proper negotiating skills and techniques.
- D. Demonstrates skill in the examination of witnesses, the introduction and use of evidence, opening statements, closing arguments and other aspects of in-court litigation. Exhibits proficiency with applicable rules relating to procedure and evidence.
- E. Properly manages post-trial obligations. These include timely reports to supervisors, timely filing of post-trial motions where appropriate, timely requests on appeal or no-appeal, timely processing of paperwork for judgments or settlements, and timely close-out of case files, including submitting forms for entry of trial and disposition data.

Rating for this competency:

<input checked="" type="checkbox"/> Exceeds Expectations	<input type="checkbox"/> Needs Improvement
<input type="checkbox"/> Meets Expectations	<input type="checkbox"/> Fails Expectations

Illustrations that support the rating:

The following applies to the period between September 1, 2002 and May 21, 2003, while assigned to OCC's Juvenile Section:

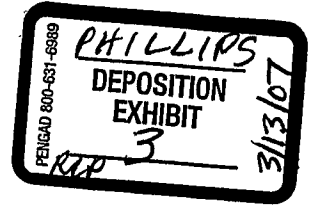
Ms. Phillips is passionate about serving as an advocate for the youth who are in the juvenile justice system, making her an extremely effective voice to ensure that appropriate rehabilitative services are in place. Ms. Phillips knows the system well and uses this knowledge to accomplish the goals set out in her cases and to keep YSA in compliance with court orders. Additionally, she uses her familiarity with other agencies and systems to help YSA navigate and coordinate the effective delivery of services in cases in which she is involved. When a judge issues a show cause order Ms. Phillips immediately contacts the agency, assists them in preparing their defense and goes to court on their behalf, often with the underlying problem having been resolved with her assistance. She then forcefully and successfully argues that the

show cause be discharged. Indeed, Ms. Phillips successfully defended YSA in a number of show cause motions during the rating period—averting an order of contempt each and every time.

Ms. Phillips immediately responds to demands from the court and YSA. She is supportive of YSA and its programs and, as noted above, has a strong record of successfully defending the agency. YSA will frequently contact Ms. Phillips about problems in cases, and she drops everything to work on resolving problems in the case. Even when the problem may fall outside of the direct purview of YSA, for example with the school system or Child & Family Services, Ms. Phillips keeps herself involved until she knows that the case is brought to a resolution. Ms. Phillips assists YSA with following through on court obligations. She is capable of handling complex post-disposition issues that contain several major issues with little supervision. She shows great initiative in the handling of her cases. Ms. Phillips will not hesitate to contact any resource that may be available to solve a problem in a case. She is then able to present a comprehensive plan to the court. Her proactive attitude has helped YSA avoid show cause orders being issued against them. The judges and the agency rely on her for her creative resolution to placement and treatment issues.

Ms. Phillips has an excellent relationship with many of the judges and is known for her substantial knowledge of the systems and services in the District and her willingness to go the extra mile to navigate these services and bring resolution to a case. Moreover, Ms. Phillips is known for her high degree of caring about the youth in the juvenile justice system. In that regard, she is seen as an advocate for the best available services for the youth. Judges who share Ms. Phillips's philosophy regarding community placements welcome her to their courtrooms as an effective force for placing and servicing a child's needs in the community.

FY2001 Attorney Evaluation Committee



Attorney's Name: Mary Phillips Date Returned to Rater: _____

Rater's Name: Dave Rosenthal Date Due Back to Patricia: _____

The evaluation is being returned for revision because:

- A. Rater/deputy signature (s) are missing.
- B. The overall rating doesn't comport with the sum of the elements.
- C. No weighting (%'s) provided, or the weight of _____ for element # _____ is too high, or different weighting given to different employees in same unit.
- D. The rating for element(s) 2, 4, 5 is not supported by the language offered. More explicit justification is needed. Examples need to be cited, the quality or quantity of work needs to be described, and/or minimum standards for the grade level were not met.

2: as a DS-14, justification provided reads as "needs impr"
 # 4: inconsistent w/ # 2. Understates how difficult she is and how poor her inter-personal skills are. Nothing here can support "exceeds."
 # 5: taking case files to court as a DS-14 is "meets" or "needs impr"

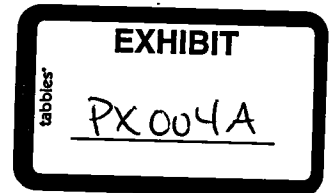
E. Spelling or math errors on element(s) # _____

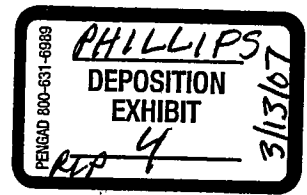
F. Other: need 60% exceeds for an overall rating of exceeds nc
exc
!

NEXT STEP:

Committee signed evaluation but requires minor changes on elements _____
or

Committee requires that you re-write/ substantiate illustration as indicated or lower element rating to comport with language.





TO: DAVE ROSENTHAL
FR: MARY PHILLIPS
RE: CHALLENGE TO RATING/EVALUATION
DE: FEBRUARY 4, 2002

This is to challenge the recommendation of the committee to change my overall rating from "exceeds expectations" to merely "meets expectations". As my direct supervisor, you gave an honest assessment of my work, which you found to exceed expectations. Your supervisor, Eugene Irvin and his supervisor, Sharon Styles-Anderson, all concurred that I exceeded expectations and indeed even awarded me a bonus Quality Step Increase during this rating period for my exemplary performance.

As the committee, most of whom have never even met me, are probably not aware, I always go above and beyond the call of duty. I adhere to the highest ethical standards and bring to the attention of my client and my supervisors any hint of problems involving our compliance with Court orders. I am keenly aware of my ethical obligations and am always cognizant of my duties to disclose and my duties to maintain confidentiality. I am also keenly aware of the balancing act that I must do to satisfy both postures.

I am always available nights and weekends by cell phone and at home to colleagues, YSA staff, the court and defense counsel. I have conducted hearings from my hospital bed and by phone regularly when I am on vacation. Indeed, as recently as three weeks ago, I conducted a hearing by cell phone from my vacation in Hawaii. I always travel with my cell phone and laptop computer so as to be available to the office, YSA and the Court. I am a problem solver who has the ability to cut through "red tape" in order to accomplish the goals of the juvenile justice system, our office and our client, the Youth Services Administration. During this rating period I have traveled to a number of residential facilities, on my own time and frequently at my own expense. I have visited Riverside Hospital and Saint Elizabeth's Hospital during this rating period as well.

I get along extremely well with my colleagues and am always available to them for guidance. They regularly turn to me for assistance in complicated, difficult and complex situations and I am always available at the drop of a hat to step up to the plate and provide that assistance. Frequently, I just take over the handling of the case altogether.

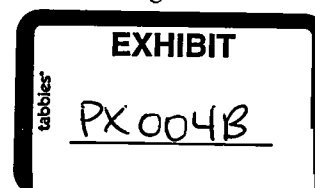
Judges routinely call me specifically to request that I appear in particularly complicated or sensitive cases. Judges also frequently call me personally for my opinion on legal issues and those calls are often outside of regular working hours. In fact, one judge recently wrote a letter of commendation about me to the chief judge.

I am regularly asked by judges to participate in the training of new judges entering the Family Division and always agree to do so.

I have taken advantage of numerous training opportunities in both ethics and the care and rehabilitation of children. I have taken courses in ethics, gang violence, residential placement alternatives and administering juvenile justice programs. During this rating period alone, I travelled to Florida, California, Nevada and Colorado in order to learn about ways to improve our juvenile justice system.

In addition to receiving more training myself, I have been asked to participate as a panelist in the Inn of Court by former Chief Judge Ugast in the training of practitioners in the field of juvenile justice. I am regularly invited by judges to attend the annual Judicial Conferences and this past year received several invitations for the same same conference from several different judges.

In addition to all of this, I have developed a tracking system in order to keep up with my many assorted cases. Since I frequently am given little or no notice to handle emergency matters, I have developed my own system so that cases and notes do not get lost in the confusion of the moment. I also have perfected my system of notetaking so that at a glance, anyone looking at the file will be able to tell exactly what happened in a particular case and who was present at the hearing or involved in the meeting.



I routinely sign out so that I can be located at all times and have distributed my cell phone number to everyone in the office so that I am accessible when not in a courtroom or in the office. This ensures that I am able to be reached in order to cover emergency hearings or to provide emergency relief to the requesting party. I am usually the first person to arrive in the morning and therefore turn on all lights and keep my door locked until others arrive to assure my safety as well as the safety of others. When I am the last to leave at night, I turn out the lights to conserve energy and make certain that all appropriate doors are closed and locked, particularly the file room containing confidential information.

Finally, for the last half of the rating period I have been responsible for handling all of YSA's matters as the sole attorney in the YSA unit, while awaiting the hiring of the replacement attorney, which has not been accomplished to date. I have risen to the occasion, no matter how crushing the load at times, as a team player and for the good of the office as a whole. This has also been done without a hint of complaint

I hope this addresses all of the items that have been called into question.
Thank you for your support and guidance.

Government of the District of Columbia

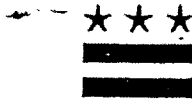
OFFICE OF THE CORPORATION COUNSEL

JUDICIARY SQUARE

441 FOURTH ST., N.W.

WASHINGTON, D. C. 20001

Criminal Division
Juvenile Section




IN REPLY REFER TO:

MEMORANDUM

TO: Robert R. Rigsby
Corporation Counsel

THROUGH: Sharon Styles-Anderson
Senior Deputy
Public Protection & Enforcement

Eugene Irvin
Deputy, Criminal Division

FROM: Dave Rosenthal 
Chief, Juvenile Section

DATE: February 5, 2002

SUBJECT: Request for Change in Mary Phillips' Rating

I am requesting that Mary Phillips' overall evaluation be changed to "exceeds expectation."

Ms. Phillips is assigned to the YSA Unit. In this capacity she has been exceedingly helpful in creating an environment where judges no longer issue show cause orders against YSA or its staff. Ms. Phillips gives her all to her job. The court, the bar, and fellow ACCs know that they can count on her to shepard difficult cases through postdisposition litigation. In consideration of the strengths that Ms. Phillips brings to her work and the level of dedication that she has shown, I wrote an evaluation that rated Ms. Phillips as exceeding expectations in 68% of her rating performances. Accordingly, I originally gave Ms. Phillips an overall rating of exceeds expectations. However, when the review panel returned the evaluation they had lowered two of the performance elements from exceeds expectations to meets expectations. The review panel lowered Ms. Phillips overall rating to meets expectations.

After reviewing the evaluation with Ms. Phillips we have mutually agreed that I should request that you reinstate the original evaluations that I gave to her and, thus, give Ms. Phillips an overall rating of exceeds expectations. Attached to this memorandum is a copy of a letter that Ms. Phillips wrote to me requesting the increase in her evaluation. Also attached is a copy of her evaluation.

EXHIBIT

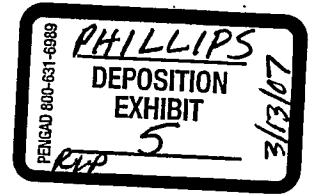
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GOVERNMENT OF THE DISTRICT OF COLUMBIA
Office of the Corporation Counsel

Corporation Counsel



MEMORANDUM

TO: Mary Phillips
Assistant Corporation Counsel
Juvenile Section, Criminal Division

FROM: Robert R. Rigsby *[Signature]*
Corporation Counsel

DATE: March 1, 2002

SUBJECT: Appeal of Performance Evaluation

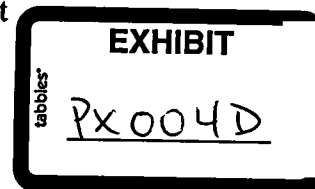
Dear Mary:

This responds to your recent appeal concerning your performance evaluation for the 2000-2001 rating period.

Your appeal challenges your ratings of "Meets Expectations" for Performance Element #'s 4 and 5, Professional Conduct & Effectiveness in Working With Others and Office Procedures. These ratings were based on recommendations of the Evaluation Panel, which downgraded the ratings of "Exceeds Expectations" on these elements that your supervisor, Dave Rosenthal, had recommended. The result was that your overall rating decreased from "Exceeds Expectations" to "Meets Expectations."

Your appeal requests an increase in the ratings for Element #'s 4 and 5 to "Exceeds Expectations" as well as an increase in your overall rating to "Exceeds Expectations." Because your supervisor rated you as "Meets Expectations" on two other elements, and because you do not appeal those ratings, you must receive "Exceeds Expectations" on both Element #'s 4 and 5 in order to obtain an overall rating of "Exceeds Expectations."

I have reviewed very carefully your February 4, 2002 memorandum in support of this appeal as well as Mr. Rosenthal's February 5, 2002 memorandum supporting the appeal, which also endorses the observations in your memorandum. Based on that review, I have decided to grant your appeal as to Element #4, but deny it as to both Element #5 and your overall rating, which will remain as "Meets Expectations."



Mr. Rosenthal should revise your rating for Element # 4 to read "Exceeds Expectations." I hereby also direct Mr. Rosenthal to incorporate into the narrative for Element #4 certain information contained in your February 4, 2002 memorandum. Element #4 should include additional material that substantially states the following:

During this rating period, Ms. Phillips traveled to a number of residential facilities on her own time and frequently at her own expense. She visited Riverside Hospital and Saint Elizabeth's Hospital during this rating period as well.

Judges routinely call her specifically to request that she appear in particularly complicated or sensitive cases. Judges also frequently call her personally for her opinion on legal issues and those calls are often outside of regular working hours.

She is regularly asked by judges to participate in the training of new judges entering the Family Division and always agrees to do so.

She has taken advantage of numerous training opportunities in both ethics and the care and rehabilitation of children. She has taken courses in ethics, gang violence, residential placement alternatives and administering juvenile justice programs. During this rating period alone, she traveled to Florida, California, Nevada and Colorado in order to learn about ways to improve our juvenile justice system.

In addition to receiving more training herself, she has been asked to participate as a panelist in the Inn of Court by former Chief Judge Ugast in the training of practitioners in the field of juvenile justice.

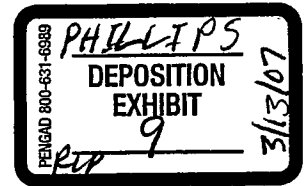
After this change is made, the revised evaluation should be returned to me for approval, signature, and placement in your personnel file. Mr. Rosenthal should also provide a copy to you. In accordance with section 3605.12 of the Legal Service Rules, this is a final decision and not subject to further appeal.

Thank you very much for bringing this to my attention.

RRR

cc: Arabella Teal
Sharon Styles-Anderson
Dave Rosenthal
Patricia Kuhn
Wayne Witkowski

To: Interim Corporation Counsel, Arabella Teal
Th: Angela Harvey
Th: Dave Rosenthal
Fr: Steven Anderson
Re: Challenge to Evaluation/Rating
De: May 12, 2003



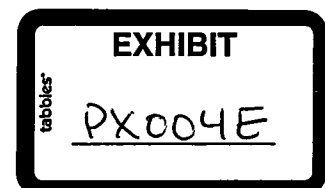
This is to formally challenge the rating of Ms. Mary Phillips for the rating period 9-1-01 through 8-31-02 and received and signed May 5, 2003.

There are several bases for the challenge, which are both procedural and substantive in nature.

Ms. Phillips never received an interim evaluation, as is required by the Legal Services Act. Thus, she has had no opportunity to respond to any perceived concerns. Additionally, the evaluation was to have been conducted by September 20, 2002 and gotten to her shortly thereafter, once reviewed by supervisors. To receive the evaluation eight months after the review period with no notice of concerns prior, puts Ms. Phillips at a distinct disadvantage.

Had the evaluation been timely performed, it would have been done while Senior Deputy Corporation Counsel Sharon Styles-Anderson was with the office. Ms. Styles-Anderson knew Ms. Phillips' work intimately, and indeed selected her for complex and high profile projects.

Additionally, the rating period expired during the time that Ms. Styles-Anderson was still with the office; therefore, it would have been appropriate for her to review the evaluation. Ms. Phillips is confident that the rating would not be the same, had Ms. Styles-Anderson been included in the review process.



By not receiving her evaluation until May 5, 2003, has put Ms. Phillips at a distinct disadvantage. Her colleagues received their evaluations significantly earlier than did Ms. Phillips, with no explanation given as to why Ms. Phillips evaluation was delayed.

Challenge to the rating for Element 1

Ms. Phillips received a "Meets Expectations" in the category Conduct of Legal Research and Writing. Mr. Rosenthal, year after year, repeats the same language where he inaccurately states that "Ms. Phillips continues to shy away from writing and filing pleadings in her cases." Ms. Phillips does not shy away from filing written pleadings. It is ironic that Mr. Rosenthal would select such an area on which to misjudge Ms. Phillips, when she has frequently been recognized for her literary abilities, beginning at a very young age.

Previous evaluators in OCC have acknowledged Ms. Phillips' writing abilities. For the past five years, Ms. Phillips has been assigned to represent YSA. The very nature of her work is one of negotiation and mediation. There is very little need for the filing of written pleadings in the vast majority of the cases to which Ms. Phillips has been assigned. Ms. Phillips has been able to convince judges to issue orders that comply with OCC's interpretation of the law, thus avoiding the need to file appeals. The Court of Appeals has now concurred with OCC's position. While ACCs now face a significant number of remanded cases for new dispositions, Ms. Phillips will have very few, if any, remanded cases for disposition. This is due to her resolution of the cases to everyone's satisfaction and consistent with the law. Ms. Phillips has at least four motions she filed during the period.

Ms. Phillips will not file frivolous pleadings. This is consistent with her refusal to make frivolous arguments as well as her unwillingness to make frivolous objections. Ms. Phillips

knows when to file a pleading and when to negotiate a settlement. Frequently such settlements alleviate the very real risk of a finding against the District Government. Ms. Phillips has never failed to answer a motion, nor has she ever put the government in a vulnerable position. The Government has prevailed in virtually every situation that Ms. Phillips has worked with other agencies and the defense bar.

Mr. Rosenthal could not give a single example where Ms. Phillips should have filed a pleading where it was not filed. This leaves Ms. Phillips trying to prove a negative. Due to Ms. Phillips' extraordinary reputation and relationship with the Court, the Defense Bar and Agency representatives, she has been able to negotiate settlements. On numerous occasions during the relevant time period she has been able to convince defense attorneys to refrain from filing already drafted Motions to Show Cause against the District of Columbia. This is due to her unique ability to get along with defense attorneys in addition to her relationships with probation officers, social workers and YSA administrators. Ms. Phillips has a relationship with the YSA Administrator that is such that she calls her on her cell phone with problems in need of high level and immediate intervention. Frequently this results in problems being solved and hearings being cancelled due to Agency compliance and cooperation. This is due to the high esteem in which she is held by the Court and her ability to work with YSA to comply with Court orders.

Additionally, she has frequently been able to convince the Court not to issue Orders to Show Cause. Significantly, there has NEVER been a finding of contempt issued against her client, YSA, in any case in which Ms. Phillips has been involved. This cannot be said of others in the office.

In the past, Ms. Phillips has declined to sign evaluations produced by Mr. Rosenthal, despite being rated "Substantially

Exceeds Expectations.” The reason for her declination is because of Mr. Rosenthal’s baseless assertion that Ms. Phillips shies away from the written word.

Challenge to the evaluation for Element 4: Professional Conduct and Effectiveness in working with others

In the evaluation, Mr. Rosenthal acknowledges that

“Mary Phillips continues to enjoy an outstanding relationship with many of the judges and defense attorneys. She makes herself available to YSA at all hours of the day and on weekends. She is in constant phone contact with YSA supervisors and social workers. When she is not talking to them, preparing for court, or in court, she is emailing YSA staff about cases that requires attention.

Ms. Phillips is frequently given last minute court assignments requiring her to quickly familiarize herself with a juvenile’s social factors so that she can represent the agency and our Office’s position at post disposition hearings. She responds quickly to agency requests and is excellent at handling their emergency matters.”

Mr. Rosenthal then proceeds to criticize Ms. Phillips and states that YSA workers have complained that Ms. Phillips was argumentative and raised her voice at them. (He does not provide specific names or dates.) Mr. Rosenthal fails to report that the two employees to whom he is referring are the subject of personnel actions for **their** conduct and that Ms. Phillips was working in conjunction with their supervisors. Both have attempted to deflect the negative personnel actions taken against them by attacking Ms.

Phillips, as well as others. Further, both workers have been the source of numerous complaints by attorneys in his section. One of the two such workers has been fired.

Next, Mr. Rosenthal states that “Ms. Phillips has been counseled on appropriate methods for responding to authority. She personalizes disagreements over how a case should be handled or when presented with constructive criticism.”

Indeed, the very instances that Mr. Rosenthal references are the incidents in which **Ms. Phillips** was the **complainant**. One week **after** she registered her concerns and EEO issues with office administrators about Mr. Gillice and Mr. Rosenthal the retaliation accelerated. In a thinly veiled attempt to protect themselves, Mr. Rosenthal, Mr. Rubenstein and Mr. Gillice attempted to shift the focus away from themselves and onto Ms. Phillips. It was Mr. Gillice who stormed into Ms. Phillips’ office and verbally assaulted her, falsely accusing her of improperly handling a case. Indeed, Ms. Phillips called Mr. Gillice from the courtroom for his thoughts on the handling of an issue late in the evening. Mr. Gillice and Ms. Phillips agreed upon a course of action (having a respondent detained over the weekend) thus precluding the need to bring in probation officers late on a Friday evening. Mr. Gillice apparently got the difference between a show cause hearing for a probation violation and a probable cause hearing confused. Mr. Gillice loudly stormed into Ms. Phillips’ office and began berating her and accusing her of involving herself improperly in a case. This was absolutely incorrect. Ms. Phillips had just spoken with Mr. Gillice on the phone, from the courtroom, with others present. Apparently, he thought that when Ms. Phillips informed him that the Respondent would agree to waive his probable cause hearing until the following Monday, Mr. Gillice thought that the Respondent was waiving his right to a show cause hearing. When Mr. Gillice finally realized that he was the one who made the error he walked away rather sheepishly, never apologizing for his attack.

The following Monday morning, Ms. Phillips attempted to seek redress from Mr. Rosenthal for Mr. Gillice's conduct. Mr. Rosenthal refused to talk to her or to demand that Mr. Gillice issue an apology. It was at that point that Ms. Phillips sought redress from Ms. Teal. Ms. Teal was out of town and Ms. Phillips spent approximately two hours meeting with Acting Principal Deputy Corporation Counsel Eugene Adams, outlining her treatment in the office by Mr. Gillice and Mr. Rosenthal. Mr. Adams relayed the information to the EEO representative who relayed it to Mr. Rosenthal. Approximately one week later, **after Mr. Rosenthal learned of Ms. Phillips' complaint**, Mr. Rosenthal then wanted to discuss the incident in which Ms. Phillips had sought his intervention. However, rather than reprimanding Mr. Gillice for his misconduct, in what appeared to be an attempt to try to stop Ms. Phillips' EEO complaint, he, for the first time, accused Ms. Phillips of wrongdoing. Had Ms. Phillips indeed been the wrongdoer in the situation, it would seem that Mr. Rosenthal would have "counseled" her the week before when she approached him. Instead, once he learned that Ms. Phillips had gone over his head and was seeking redress, he accused her of being the wrongdoer, more than a week earlier.

It is noteworthy, that all of this happened as soon as Senior Deputy Corporation Counsel Sharon-Styles Anderson left the office. No such conduct by Mr. Gillice or Mr. Rosenthal was permitted while Ms. Styles-Anderson was supervising. (Post Script: Mr. Gillice and his successors saw to it that the Respondent was detained, pre-trial, at Oak Hill for nine months on the case. During that period of time, due to the Government's position, the child was not permitted so much as a day pass to see his family, even on Christmas day. **All charges were ultimately dismissed by the government, the Court and at trial by means of acquittal.**)

Mr. Rosenthal further states that Ms. Phillips' "philosophical perspective on dispositions is not entirely consistent with the Section's dual role. Her penchant for liberal dispositions frequently forces the Section to turn to others for help in serious cases where there is a belief that the respondent poses a threat to community safety." This statement speaks volumes and gets to the heart of the matter. Ms. Phillips has been labeled the "L" word – a liberal. There is nothing illegal or immoral about being a "liberal".

However, that is not the issue here. The issue is care and rehabilitation of juveniles. The majority of attorneys in the section have applied to become Assistant United States Attorneys. Several have been hired to do just that. The mandate of the United States Attorney's Office is one of prosecuting adults for crimes committed and seeing that justice is served.

The juvenile justice system is different. Its role is one of care and rehabilitation of the child as well as protection of the community. Ms. Phillips takes both of those roles very seriously. She does not single handedly or myopically make recommendations based simply on a case file. Rather, she looks at the entire picture – where, when and how the child is best able to receive necessary services while insuring the safety of the community. She looks to the nature of the offense with which the child is charged. She looks at the child's reliability in appearing for court hearings. She looks to the overall compliance of conditions of release or detainment set forth by the court and/or the parents. She looks to the dangerousness of the youth, both to himself/herself, as well as to the community.

Ms. Phillips is very thorough and comprehensive. She reviews evaluations, IEPs, reports, assessments, probation and social service recommendations and treatment team recommendations before making any recommendations to the Court. Ms. Phillips is very meticulous in her reviews and frequently will recommend

continuing a case rather than rushing to disposition if all data is not yet available in order to determine the most appropriate placement for a child. At the same time, Ms. Phillips

Mr. Rosenthal also accuses Ms. Phillips of formulating “opinions regarding dispositions in cases without discussion with the ACC who prosecuted the case”. There is no such office policy, procedure or mandate. When an ACC has completed the trial or plea in a case, he or she is generally through with the case and it is submitted for the recordation of the statistics. It is then put into the general MUSH system. The person assigned to handle MUSH for the particular day that the case is on the calendar is the person who is responsible for the handling of the matter. **The person to whom the disposition has been assigned is the person responsible for the disposition.**

On very rare occasions, an attorney may want to retain a case and follow the case through disposition. In such a case, Ms. Phillips would have no involvement, nor would any other attorney assigned to handle dispositions. In other words, the only time the trial attorney remains involved in the disposition is when he or she specifically retains the case. This may appear to be an undesirable way to handle cases. However, this has been the office policy for many years and Ms. Phillips had no involvement in the establishment of such a policy (nor does she think it is particularly in the best interest of the child) but Ms. Phillips does not set policy, she simply complies with it. (After the rating period concluded, effective January 6, 2003, some office policies have changed in regard to the handling of disposition cases.)

Thus, it is incorrect and disingenuous to suggest that Ms. Phillips should consult the trial attorneys in the cases that she takes to disposition. Indeed, it is one of Ms. Phillips’ primary duties to handle dispositions of cases. There is no such office policy nor has

Ms. Phillips EVER been instructed to consult with the attorney who tried a case before going to disposition. This is the first time that any allegation has been lodged. When attorneys have come to her with a particular interest in the disposition of a case, Ms. Phillips has worked in consultation with the trial attorney, often offering ideas and assistance to the attorney. Ms. Phillips has developed quite an expertise over the years and is a tremendous resource to the attorneys as well as the court, probation and YSA.

Finally, Mr. Rosenthal states that “the Juvenile Section maintains a calendar of hearing dates for judges who have rotated off of the Juvenile Trial Calendars. On numerous occasions Ms. Phillips was told that she must list in the calendar all of the cases in which she is scheduled to appear. Ms. Phillips compliance with this requirement is spotty.” The calendar to which Mr. Rosenthal is referring is known as the MUSH book. Ms. Phillips acknowledges that in 2001 she was less than perfect in recording all of her hearings (although she would copy her calendar and place it in the MUSH book. In January 2002, Mr. Rosenthal reminded her about recording her hearings in the MUSH book. **Ever since that date, Ms. Phillips has been religious about such recordation.** Ms. Phillips requested the 2002 MUSH book to provide documentary evidence to Mr. Rosenthal, matching her calendar against the office calendar (the 2002 MUSH book). However, Mr. Rosenthal has not produced the 2002 calendar, despite requests from Ms. Phillips, her attorneys, and her Union Representative.

Finally, Ms. Phillips is being held to a different standard than others when it comes to recording hearings in the MUSH book. Frequently, there are cases in the MUSH book that have been cancelled or continued, without any notation in the MUSH book. Additionally, there are frequently hearings that are scheduled that attorneys have neglected to record in the MUSH book. Ms.

Phillips is the only attorney who has been admonished about the MUSH book, despite others much more egregious violations.

Challenge of evaluation for Element 5 – Office Procedures

Ms. Phillips' is puzzled as to why she received a "Meets expectations" rather than an "Exceeds expectations" rating in this category. Mr. Rosenthal states that:

"Ms. Phillips frequently makes herself available to speak or meet with YSA personnel outside of normal business hours. It is not unusual for her to make and receive phone calls from her home late into the night or on weekends to try and solve problems that arise in the cases that she handles. YSA staff feels comfortable contacting her to seek her opinion during these times.

In her role as a YSA Unit attorney representatives of the agency reported that Ms. Phillips typically juggles multiple cases and covers court for YSA with or without social workers present. Ms. Phillips handles these cases before a large number of judges who have rotated off of the Juvenile trial calendars. Ms. Phillips is able to cover these cases even though judges frequently set them for the same time of day or the same day of the week. She is careful to apprise the court of potential conflicts when hearings are set.

Supervisors can always reach Ms. Phillips by cell phone. She is frequently called and asked to take on additional last minute court assignments. She graciously, accepts these assignments whenever it is physically possible for her to do so. She has been known to run between courtrooms to ensure our presence at hearings."

Mr. Rosenthal then concludes this section/element of the evaluation by stating that "she rarely makes herself available to supervisors to assist in duties such as papering".

This seems to contradict the entire remainder of the evaluation for Element 5. Ms. Phillips is available to OCC, YSA and the Court at all times, day, night, weekends, vacations, and even while ill and hospitalized. She has never refused to assist any attorney or supervisor in the office. It almost seems as if the sentence was from another attorney's evaluation and copied onto Ms. Phillips' evaluation in error. Furthermore, Ms. Phillips is hired to do the work of YSA, not to assist in papering (though she does do this as well as she supervises papering on Saturdays and holidays). Indeed, it was made very clear to Ms. Phillips and Mr. Rosenthal that YSA attorneys are paid for from YSA funds and that they are to perform YSA tasks exclusively. From the outset, one of the concerns of YSA was that the attorneys would be for YSA exclusively, not another attorney for OCC. That was a major point of emphasis by YSA in the negotiations for the hiring of two attorneys and absolutely committed to by OCC.

Therefore Mr. Rosenthal's suggestion is perplexing. He acknowledges how hard working Ms. Phillips is. In both this section as well as others he refers to her availability at all hours and days. To suggest that despite the fact that Ms. Phillips works well beyond her compensated and scheduled hours, she should "volunteer" for papering is, at best, questionable.

Conclusion

For these reasons, the evidence demonstrates that Ms. Phillips' evaluation should be changed from MEETS EXPECTATIONS TO EXCEEDS EXPECTATIONS. Ms. Phillips handled hundreds of cases during this evaluation period. There is no mention of any error detrimental to the Government's position in any of her cases. She has prevailed in every challenge against YSA and has successfully resolved many cases where YSA was facing Contempt of Court.

Not only is Mr. Rosenthal not being specific, he fails to mention that Ms. Phillips was recognized by the Mayor for her contributions to NSI, was recognized by the MAPT team chairperson for her invaluable contributions to MAPT and was recognized by the Corporation Counsel for outstanding performance in the form of a bonus. Additionally, Ms. Phillips has repeatedly been recommended for Substantially Exceeding Expectations in the Office of the Corporation Counsel. She remains as hard working and committed to the District of Columbia as she has ever been.

Thank you for your consideration of this matter.