



CHILD PROTECTIVE SERVICE ISSUES FOR THE 81ST LEGISLATIVE SESSION

The 79th and 80th legislatures made significant financial investments in Child Protective Services (CPS). CPS used those resources to improve investigations, keep more children safe in their homes or with relatives, and to increase the number of adoptions for children who could not return to their parents' care.¹ But challenges remain. To meet these challenges and maintain the momentum of success, it is important that the 81st legislature continue to invest in CPS.

CPS Has Significantly Improved Outcomes For Children

With the recent financial investments, CPS has been able to improve outcomes for children. Despite a 62 percent increase in the number of new cases opened for services in 2008 as compared to 2004:

- **CPS Investigators are doing a better job of making a substantive determination on cases.** The percentage of alleged victims who had their investigation closed with an “unable to complete” or “unable to determine” designation fell from 23 percent in 2004 to 14 percent in 2008.
- **CPS is safely serving more children in their own home:** The proportion of newly opened cases where the family receives supervision and services while the child remains in the home increased from 65 percent in 2004 to 76 percent in 2008. In-home service cases have also become more stable. Although the number of in-home service cases has grown, the number of removals from these cases has fallen from 3,928 in 2004 to 2,698 in 2008—a 31 percent decrease.
- **CPS is placing more children who cannot live in their own home with relatives, reducing the number of children in foster care.** The proportion of children in the custody of the Department of Children and Family Services (DFPS) who are placed with a relative has grown from 18 percent in 2004 to 30 percent in 2008 and the proportion in foster care has shrunk from 69 percent in 2004 to 58 percent in 2008.
- **A growing number of children who cannot be safely returned to their home or to a relative are exiting through adoption:** 4,517 children were adopted in 2008 compared to 2,512 children in 2004—an 80 percent increase.

CPS Has Improved Its Internal Operations²

- **CPS has reduced investigators' caseloads significantly:** Caseloads fell from 34.7 in 2006 to 21.9 in 2008—a 37 percent drop.
- **CPS has reduced conservatorship caseworkers' caseloads and conservatorship caseworkers are voluntarily leaving CPS at a lower rate:** Since 2006, conservatorship caseloads have dropped about 16 percent, from 44.5 to 37.3. At the same time, voluntary turnover among conservatorship workers has dropped from 33 percent in 2006 to 30 percent in 2008.

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- **Caseworkers' attitudes towards their work and CPS have improved.** Based on annual surveys, caseworkers are more satisfied with their job, their workloads and available resources in 2008 as compared to 2005.³ And on the Survey of Excellence, which is administered to state agency employees every 2 years, CPS' overall scores improved in every dimension in 2008 as compared to 2006.

CPS Still Faces Challenges

Like most social service agencies in Texas, CPS faces a challenge in getting the legislature to fund a budget that will allow it to meet its obligations to the families and children it serves. Our recommendations regarding specific CPS budget issues are detailed in our written testimony to the Senate Finance Committee, available at: <http://cphp.org/files/4/20102011CPSbudget.pdf>. In addition to budget issues, however, CPS faces several other challenges discussed below.

1. The In-Home Service System Is Stretched

Since 2004, the average number of families receiving in-home services, or family based safety services (FBSS), has increased 62 percent. These numbers will only grow as the economic downturn continues; studies have shown that children living in poverty are more likely to become involved with child protective services.⁴ But as compared to 2009, the LBB budget has a 3.7 percent drop in funding for services to help families resolve their underlying problems⁵ and a 1.7 percent drop in family day care services.⁶

In addition to fewer services for families, the caseworkers who supervise the families have not seen any reduction in caseloads. Since 2006 caseloads for investigators declined 37 percent and caseloads for conservatorship workers declined 16 percent, but FBSS caseloads remained at a daily average of about 20.3. This may help explain why voluntary turnover for FBSS workers has increased (from 25 percent in 2006 to 28 percent in 2008) while voluntary turnover for CPS as a whole declined (from 30 percent in 2006 to 29 percent in 2008).⁷

With the high caseloads, caseworkers are not able to meet mandated federal requirements to visit children and parents at least once a month. This means possible federal fines. More importantly, however, it means that caseworkers cannot adequately supervise these families such that any potential problems are detected early and addressed through additional services or, if necessary, through removal. This puts children at risk.

The issue primarily is one of funding. The legislature must budget services and staff at a level so that CPS can keep children safe in their homes. The \$53 million in freed general revenue from CPS federal recovery funds can help. As the need for services increases with the economic downturn, the freed general revenue can be used to fill the current budget gap. As the economy improves, the need for services will decline so by the time the federal recovery ends in state fiscal 2011, there will not be a need for general revenue to fill the void.

2. Too Many Children Fail To Find A Forever Home

Although the proportion of children in the permanent managing conservatorship (PMC) of DFPS without a termination of parental rights (TPR) has declined over the years, it still remains too high, especially for young children. In January of 2009, 4,217 children were in PMC with DFPS without full TPR and of those, 28 percent (1,180) were under the age of 10 and 14 percent (573) were under the age of 6. More often than not, these children grow up in foster care, moving from home to home until they "age out" at 18 into homelessness, crime, poverty and teen pregnancy. In 2008, 1,468 youth aged out of the system—a 55 percent increase from 2003.

This problem needs to be addressed on multiple fronts. First, there should be a study determine how these children end up in PMC without full TPR. Armed with data and insight, the legislature and DFPS can adopt effective and targeted policies to ensure that PMC without full TPR occurs only as an absolute exception. Freed general revenue from the fiscal recovery package can be used to help fund this research. Second, as set forth in House Bill 884 (Naishtat), for those children in PMC without full TPR, DFPS needs to continue to look for permanent alternatives, including a periodic re-evaluation of a parent's circumstances. Third, for those children for whom a permanent home cannot be found, they must have the necessary support and services to make a successful transition out of care. House Bill 704 (Rose) and 705 (Rose) attempt to address that problem by providing that children have the necessary documents (e.g., birth certificate) before they age out and allowing a court to continue jurisdiction over a child even after the age of 18. House Bill 1043 (Orr) is also aimed at this population, essentially extending the state agency hiring preference available to military veterans to cover youth who have aged out of the child welfare system. Finally, the legislature needs to ensure that DFPS can take advantage of the provisions in the federal Fostering Connections to Success and Increasing Adoptions Act aimed at helping youth transition out of care. A detailed discussion of the act and its implications for Texas are in the center's recent policy page entitled "New Federal Foster Care Legislation: What It Means For Texas" available at: <http://cphp.org/files/4/newfostercare.pdf>.

3. The Impact of the *Gates* Decision

In July 2008, the 5th Circuit Federal Court of Appeals published a decision in the case of *Gates v. The Texas Department of Family and Protective Services* (DFPS).⁸ The Appellate Court found that the search and seizure protections under the Fourth Amendment of the United States Constitution applied in child protection investigations and set forth guidelines for caseworkers to follow. In response to the decision, on August 22, 2008, DFPS issued an internal memorandum suggesting that after *Gates*, caseworkers face greater personal exposure regarding removal and investigative decisions. Subsequently, the proportion of confirmed investigations declined, fewer cases were opened for services and fewer involved removals.⁹ Before *Gates*, in July 2008, 24 percent of completed investigations were confirmed and, after *Gates*, in January 2009 only 21 percent of completed investigations were confirmed. At the same time, cases opened for services in the months after *Gates* declined almost 2 percent, despite a previous trend of growth and the economic downturn which usually results in more, not less, families needing CPS services. Finally, removals dropped precipitously. Before *Gates*, in July 2008 23 percent of the cases opened for services involved removal and after *Gates*, in January 2009 the rate dropped to 17 percent.

The impact on children and families from these changes needs to be studied.

4. Caseworker Turnover Remains Too High

Although caseworker turnover has improved over the last several years, it still remains too high. In 2008, 29 percent of caseworkers voluntarily left CPS employment.¹⁰ A sliver lining in the recent economic downturn, however, is that CPS caseworkers will be less likely to voluntarily leave a secure public job. With a captive workforce, CPS can build the organizational and professional commitment that will make caseworkers *want* to stay at CPS, ensuring that the turnover cycle does not begin anew once economic conditions improve. The center's recent policy page entitled "A Better Understanding Of Caseworker Turnover Within Child Protective Services", available at: http://www.cphp.org/files/4/364_percent20DFPS_percent20workforce.pdf, contains a detailed analysis of CPS turnover trends and issues along with recruitment and retention recommendations.

5. Financial Assistance For Relative Caregivers

Relative caregivers have become an invaluable resource for children who cannot remain in their homes. In 2008, 30 percent of children in the managing conservatorship of DFPS lived with relatives and 33 percent of the children who exited care went to relatives either through adoption or a relative PMC. Relatives who adopt children are eligible for adoption subsidies that help

pay for the children's long-term care. But relatives who care for children while DFPS has temporary managing conservatorship (TMC) and those who provide long-term care through taking PMC rather than adoption receive little financial support. They only qualify for a one-time \$1,000 payment per sibling group and those under 300 percent of the federal poverty limit qualify for reimbursement of up to \$500 for three years for approved expenses.¹¹ And many relatives currently do not receive even this minimal level of support.

The Fostering Connections to Success Act, however, provides new federal funds to support relatives who take PMC under certain circumstances. While this represents an important opportunity for Texas to provide better support to relative caregivers, the adoption of such a program is complicated. First, the act requires that relatives are approved as meeting foster care standards or become licensed foster parents and, currently, virtually no relatives in Texas go through the formal licensing process. Second, the federal Administration of Children and Families (ACF) is still working out implementation details so it is unclear how the program should be structured. Third, at a minimum, any program will require general revenue for the state portion of the payment to relatives who take PMC and since these payments continue at least until the child turns 18, the cost of the program will grow exponentially each year. As a result, it is important to have a firm grasp of how many relatives would be interested in and qualify for the program. It is also important to understand how many additional relatives the program will attract beyond those who are already providing care (e.g., relatives who are qualified and willing to care for children but are financially unable to do so).

Although we recognize the need for greater financial resources for relatives, we are concerned about rushing to adopt a program before we have the necessary data and information to accurately estimate how much the program will cost and how the program should be structured. As a result, we recommend that this biennium the legislature direct DFPS to collect the necessary data and to use it to develop a detailed implementation plan after the ACF has finalized its program regulations and guidance. With the necessary data, developed ACF regulations and a detailed implementation plan, the legislature can then address in the next session how the program should be structured and funded.

6. Foster Care Rate Increases

In both the Senate Finance Committee and House Appropriations Committee hearings DFPS requested a foster care rate increase. Private providers are an essential component of providing care to children in the child welfare system. Of the 13,994 children in foster family homes at the end of 2008, 85 percent were in homes managed by private child placing agencies (CPAs). But the total number of children in foster care has dropped over the years due to more children staying at home or with relatives. Since 2005, the number children in foster care has dropped 11 percent. Along with this drop, CPAs face rising costs for the care and, with the economic downturn, a decline in outside funding support.

Part of the crisis facing CPAs is from a fundamental shift away from foster care to a more family-focused system. CPAs must adapt their business model to reflect this new reality. But even with a family-focused system, there will always be a need for foster care. These homes and the CPAs who manage them need to be paid at a rate that allows them to maintain the necessary capacity and provide quality care.

Respectfully submitted,

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¹ Unless otherwise noted, the data discussed in this paper comes from the annual databooks produced by the Department of Children and Family Services (DFPS).

² For a more detailed discussion of CPS workforce issues, please refer to the Center for Public Policy Priorities' recent policy page entitled: "A Better Understanding Of Caseworker Turnover Within Child Protective Services" available at: http://www.cppp.org/files/4/364_percent20DFPS_percent20workforce.pdf.

³ Based on annual reports of caseworker surveys produced by the Protective Services Training Institute and authored by Dr. Maria Scannapieco and Dr. Kelli Connell-Carrick.

⁴ Barth RP, Wildfire J, Green RL. *Placement Into Foster Care and the Interplay of Urbanicity, Child Behavior Problems, and Poverty*. American Journal of Orthopsychiatry, 76(3): 358-366. 2006.

⁵ LBB Budget Estimates, pg. II-20. The LBB budget does contain a slight increase in funding for substance abuse services but substance abuse services only comprise a very small part of the CPS services to families.

⁶ LBB Budget Estimates, pg. II-20.

⁷ CPPP analysis of DFPS data.

⁸ 2008 U S App (5th) 1675. At the time of the initial lawsuit, DFPS was called the Department of Protective and Regulatory Services.

⁹ CPPP analysis of DFPS data.

¹⁰ CPPP analysis of DFPS data.

¹¹ Texas Administrative Code § 700.1005 and §700.109.