Texans have recently heard one tragic story after another about the failure of our child protection system. In this policy brief, we explain that Texas has a small, inadequately funded child protection system. We then describe where the state gets money for child protection. Finally, we discuss emerging funding challenges to increasing the capacity of our system to respond to children in danger.

**OVERVIEW OF THE TEXAS SYSTEM**

**What is child protective services?**

We broadly define child protective services (CPS) as the range of programs administered or authorized by the state to prevent and address child abuse and neglect in Texas. The chart on the last page shows the various steps that may take place to protect a child from abuse or neglect.

**Is funding of child protective services adequate?**

In 2000, the most recent year for which national comparisons are available, the state spent $645 million on child protection, for an average of $110 per Texas child. This is 60 percent lower than the U.S. average of $277 per child—low enough to rank Texas 48th nationally. The huge difference between Texas and the national average is not explained by a lower cost of doing business in Texas. To reach the national average in 2000, Texas would have had to spend an additional $984 million in state and federal funds. Even to reach the Southern-states average ($186 per child) in 2000, Texas would have had to spend $447 million more on child protection.

The effects of low spending are reflected throughout the CPS system. At the front end, workloads for Texas CPS staff are the highest in the nation—in fact, more than twice as high as the national average. In fiscal 2003, our understaffed CPS removed 8,595 children from dangerous homes, out of a total population of 6 million children—less than one-quarter of 1 percent of Texas children. Texas had only 16,267 children in foster care on average in fiscal 2003—less than one-half of 1 percent of Texas children. Texas ranks 47th nationally in the number of children in foster care per 1,000 children in the state. If Texas merely had the average number of children in care per 1,000, it would have 53,114 children in foster care. This would be a good thing only if Texas had less child abuse or stronger family preservation than others, but with a rapidly growing, high poverty child population and underfunded family preservation programs, it is not likely.

A bloated bureaucracy is not to blame for inadequate Texas spending on CPS direct services. The state agency responsible for CPS is the Department of Family and Protective Services (FPS). Its budget for central and regional administration is $30.6 million for the biennium, only 1.7 percent of its total budget. Adding information services and other support services to this amount raises indirect administration’s share of the total budget to 3 percent. Even if all this money could be redirected to current services, it would not be enough to cover inflation and continued growth in the child population.
How does the state fund child protective services?

Texas CPS programs are funded primarily through legislative appropriations to the Department of Family and Protective Services in the General Appropriations Act, the two-year state budget adopted in odd-numbered years. FPS oversees child protective services; adult protective services; child-care provider licensing; and investigations of abuse, neglect, or exploitation in state Mental Health and Mental Retardation facilities. Funding for the main “strategies” of the Texas child protection budget is shown in the chart on the following page.

In the 2003 legislative session, when Texas faced a multi-billion-dollar revenue shortfall, cuts in CPS were made in at-risk prevention services (a 26 percent all-funds cut for 2004-05, compared to 2002-03 spending), and purchased client services (a 4 percent cut).

Legislators approved a 2.7 percent increase in funding for Child and Family Services (primarily CPS investigations), for new staff needed to maintain CPS caseloads at the 2002-03 level. General Revenue support for this strategy increased by only 0.1 percent, the rest of the money came mostly from federal funds. In 2003, the CPS caseload per worker was 26.7; for 2004, it is projected to rise to 28.8.7

Foster care and adoption subsidy payments received all-funds increases of 15 percent and almost 16 percent, respectively, to handle growing caseloads. But foster care General Revenue funding was cut as a result of changes in the foster care payment system and administrative cuts. The 2003 legislature also approved a new tiered plan for adoption subsidies. The new foster care rates went into effect October 1, 2003. The new payment schedule for adoption subsidies applies to children placed after September 1, 2003.
SOURCES: H.B. 1, General Appropriations Act, Regular Session of the 2003 Legislature; Fiscal 2004 Operating Budget for Department of Family and Protective Services.

Over the long term, the allocation of state spending on child protection has not changed much from what is shown in the chart above. In 1994, foster care was 46 percent of total child protection spending, not too different from its current 45 percent share. Child and Family Services (CPS investigations) accounted for 37 percent of the total in 1994, but became a smaller piece of the budget as adoption subsidies (2 percent in 1994) and prevention (1 percent in 1994) grew considerably faster.

What about local funding for child protective services?

In addition to state funding, some Texas communities put local revenue into CPS programs, drawing down additional federal dollars. For example, in 2002, Harris County Protective Services added $17.2 million to the $76 million spent by the state in Harris County on CPS. In other words, Harris County generated 18 percent more funding for child protection than would have been possible through state efforts alone.

Dallas County was quick to implement Senate Bill 961 of the 77th (2001) Legislature, which allows county and city governments to supplement CPS caseworker salaries. For fiscal 2002, the Dallas County Commissioners Court approved $384,000 in supplemental pay. The pay incentive, which reached 108 CPS workers, is credited with reducing turnover rates from 35 percent to 9 percent, and with increasing the average tenure of entry-level CPS staff by 20 percent.

In total, local funds will pay for 157.3 direct delivery CPS staff in fiscal 2004, up from 138.5 locally funded full-time equivalent employees in 2001. These locally funded staff supplement state efforts to investigate abuse/neglect and to provide in-home and substitute care services where needed by children and their families. Local governments and the nonprofit sector also support prevention programs, but a reliable
estimate of total spending on these efforts is unavailable. Finally, local governments pay for most of the judicial and law enforcement costs resulting from CPS civil and criminal cases.

The Recent Cuts Continue a Long Trend of Decreased State Support for CPS

Looking at the big picture of CPS funding over time, one can see that increased staffing and other improvements in the late 1990s have not been enough to prevent state support from stagnating (in unadjusted, nominal terms) or decreasing (after adjusting for increases in child population and inflation). The chart below shows that state support for CPS as a whole peaked in 1995, at $50 per child in 2003 dollars. (In this chart, “state” funding is not just General Revenue, but also General-Revenue-dedicated funds such as the Children’s Trust Fund and Crime Victims Compensation; appropriated receipts; and interagency contracts.)

In 1994 Texas was home to 5.2 million children. By 2004, when the child population reached almost 6.4 million, state support for child protection will be $38 per child in inflation-adjusted terms.

Use of Crime Victims Compensation Funds

State funds for Compensation to Victims of Crime (CVC) provide $62 million in funding for foster care payments (about 9 percent of the total) and $3.4 million for Adult Protective Services programs at FPS in 2004-05. FPS use of CVC increased by 94 percent in 2004-05, compared to the prior budget cycle. However, the Attorney General warned in December 2003 that the CVC fund is rapidly being depleted because of legislative decisions to use the fund for FPS and other services. By 2005, the CVC fund balance will plummet to $54 million, down from $243 million in 2002. The Legislative Budget Board has issued similar warnings to legislators on the unsustainably high spending of the CVC fund. It should not be looked to as a significant new source of funding for child protection.
HOW IS FEDERAL MONEY USED TO FUND CPS?

Temporary Assistance for Needy Families

The chart on the preceding page shows that without the growing use of the Temporary Assistance for Needy Families (TANF) welfare block grant at the Department of Family and Protective Services—mainly to fund CPS direct delivery staff, foster care payments, and prevention programs—total funding for CPS would have shown no growth at all after adjusting for child population growth and inflation. In 2004, federal TANF dollars were 30 percent of the agency’s total budget for child protection, including administration. This is more than nine times as much as in 1994, when Aid to Families with Dependent Children, TANF’s predecessor, was a mere 3 percent of Texas’ spending on child protection. Total federal TANF funding for CPS is budgeted at $230 million in 2004; all other federal funding totals $328 million. The other major federal funding streams are shown in the following chart and described briefly below.

Legislators drafting the 2004-05 state budget received requests for increased TANF federal funds not just from FPS, but also from more than half a dozen other state agencies that have come to rely on TANF. The total request for TANF greatly exceeded the amount of TANF expected to be available in 2004-05. In the end, legislators increased the use of TANF for CPS investigations and foster care, but eliminated TANF support for several child abuse/neglect prevention programs. To make matters worse, the state’s multibillion-dollar general revenue shortfall meant that no state funds were available to replace the TANF federal dollars. In several communities across the state, these critical prevention programs are no longer available. As far as prevention is concerned, any flexibility that the TANF block grant once allowed Texas budget-writers ceased to exist when an economic downturn and state fiscal crisis required TANF to be redirected to its core purpose of cash assistance.

About $28 million of the General Revenue that FPS received for 2004-05 is maintenance of effort (or “MOE”) for the federal TANF block grant. Of this, $17 million is being used to fund prevention programs. A proposal to cut TANF maintenance of effort spending at FPS in 2006-07 may be part of an overall effort to cut General Revenue spending at the agency by 5 percent, as instructed by the Governor and other state budget officials in preparing an initial “baseline” budget. If the agency is indeed directed to make its 5 percent ($9.4 million) reduction for 2006-07 by cutting TANF maintenance of effort, without an offsetting increase elsewhere in the state budget, Texas would lose federal TANF funds.

Foster Care IV-E

In 2004, the state planned to spend $128 million in federal Foster Care Title IV-E (of the Social Security Act) dollars on child protection. Of this, $93 million was foster care maintenance funds matched at the Medicaid rate (or “FMAP”), which means the federal government pays 60.22 percent of total costs (during federal fiscal year 2004). All but $2 million, used in the CPS Purchased Client Services budget, was spent on foster care payments. Not all foster children are eligible for IV-E-funded care. In Texas, the eligibility rules for cash assistance that were in effect in 1993 are used for IV-E foster care eligibility. Because the income standards are not adjusted for inflation, each year they get lower in real terms. In 2003, only 60 percent of the average Texas monthly foster care caseload was IV-E funded.

In addition to maintenance payments, another $28 million in federal IV-E funds was to be drawn down on a 50-50 basis in fiscal 2004 for administering the foster care payment system. Finally, $7.4 million in IV-E funds was to be drawn down using a 25 percent state match for training costs.
According to the federal government, “[Title IV-E] Funds may not be used for costs of social services provided to a child, the child’s family, or the child’s foster family which provide counseling or treatment to ameliorate or remedy personal problems, behaviors, or home conditions.” This restriction on IV-E is the focus of several reforms recently recommended by the Pew Commission on Children in Foster Care, a national, nonpartisan panel of child welfare experts, discussed below.

**Medicaid**

Although it is the third largest federal funding stream for child protection, Medicaid spending at this agency accounts for less than 1 percent of all Texas Medicaid-funded services, which are primarily for low-income, elderly, and disabled persons. Most of the Medicaid funding in the chart on the preceding page is in the agency’s Child and Family Services strategy ($56 million in federal Medicaid originally budgeted for fiscal 2004), where it is used for targeted case management. This had been the practice since 1994. However, in February 2004, federal officials ruled that $45 million worth of Texas’ child protection spending should not have been charged to Medicaid, but rather to Title IV-E or IV-B. Charging these costs to Title IV-E or IV-B means fewer federal dollars for every state dollar spent, thereby requiring more state dollars to pay the bill. Resolution of this issue for the 2004-05 biennium is currently being negotiated with federal officials. For the next budget cycle (2006-07), the state will be unable to use Medicaid for targeted case management to the extent that it was used in the past. As much as $28 million in General Revenue may be required to replace the lost federal funds and maintain CPS staffing levels.
**IV-E Adoption Assistance**

Like other IV-E funds, federal Adoption Assistance funding is matched at different rates (i.e., FMAP, 50 percent, or 25 percent) depending on whether it pays for adoption subsidies, administration, or training. Only adoptions involving special-needs children—sibling groups, ethnic minority children, school-age children, and children with a disability—are eligible for the payments. Furthermore, children have to be eligible either for cash assistance or Supplemental Security Income; otherwise, only some non-recurring adoption costs will be reimbursed. In 2004, $51 million in federal Adoption Assistance funds was budgeted for child protection; about $45 million was spent on adoption subsidy payments.

**Promoting Safe and Stable Families**

Promoting Safe and Stable Families is part of the IV-B federal child welfare grants. Unlike IV-E funds, IV-B funding does not have an income limit for services to children and families. At FPS, almost 46 percent of these dollars are used for at-risk prevention services. In 2004, these funds supported Services to At-Risk Youth ($6.8 million); the Community Youth Development program ($5.3 million); and Texas Families: Together and Safe ($4.4 million). About 28 percent of these funds supported Intensified Family Preservation/Reunification services; another 14 percent was used in CPS Purchased Client Services. Remaining funds from this federal grant covered administrative and personnel costs of CPS programs.

**Child Welfare Services–State Grants**

At the state level, these funds, also authorized by Title IV-B, are used primarily in the Child and Family Services strategy ($9.9 million); CPS Purchased Client Services ($7.3 million); and Intensified Family Preservation/Reunification services ($3.2 million).

Federal IV-B money is a grant, not an entitlement, and Congress has the discretion every year to decide what the actual appropriations will be. (See discussion on page 8.)

**NEXT STEPS IN IMPROVING CPS FUNDING**

**National Improvements Are Being Studied**

A national debate is underway about changing how the federal government funds child protection. This debate is particularly important to Texas because Texas is home to so many children (one in every 12 children in the United States is a Texan), offers protection to so few (fewer than 9,000 removals annually), and relies so heavily on federal funding (about 67 percent of Texas child protection spending).

The national debate is cast in terms of “flexibility” versus “block grants.” As explained earlier, states are limited in how they can spend Title IV-E funds, a major source of federal funding. Many professionals and advocates contend that more children could remain at home or return home sooner if the use of IV-E money was more flexible—for example, if IV-E could be used to pay for mental health treatment or to provide a housing subsidy for a family. When keeping the child at home is not an option, flexibility might
help get children into adoptive homes faster, or when adoption is not an option, into permanent guardianship sooner.

The Administration’s budget proposal suggested allowing states to request IV-E foster care funds as a capped block-grant for 5 years, instead of as an open-ended, growing entitlement, in exchange for flexibility.

Of course, there is no inherent link between flexibility and a block grant. The federal government could increase flexibility and continue its commitment to child protection as an entitlement. So far, however, the national conversation is focusing on some new arrangement that includes flexibility while eliminating or limiting the entitlement nature of the funding.

Trading entitlement funding for a block grant with flexibility might be seriously disadvantageous for Texas, depending on the details of the deal. Our state does not have a tax system that produces sufficient revenue for the state to meet the needs of children for child protection. If Texas got flexibility but through a capped block grant, our perennially low spending on child protection would further erode as a fixed amount would be stretched thinner and thinner each year because of inflation and child population growth.

The Pew Commission on Children in Foster Care, a national, nonpartisan panel of leading experts in child welfare, has helped to fuel the ongoing national conversation about federal finance reform by making significant recommendations after careful study of the problem. The Pew Commission’s May 2004 report recommended:

- Preserving federal foster care maintenance and adoption assistance [IV-E funding] as an entitlement and expanding it to all children, regardless of their birth families’ income [i.e., eliminating the “lookback”] and including U.S. Indian tribe children and children in the U.S. territories;
- Providing federal guardianship assistance to all children who leave foster care to live with a permanent legal guardian when a court has explicitly determined that neither reunification nor adoption are feasible permanence options;
- Helping states build a range of services from prevention, to treatment, to post-permanence by (1) creating a flexible, indexed Safe Children, Strong Families Grant from what is currently included in Title IV-B and the administration and training components of Title IV-E; and (2) allowing states to “reinvest” federal and state foster care dollars into other child welfare services if they safely reduce their use of foster care;
- Encouraging innovation by expanding and simplifying the waiver process and providing incentives to states that (1) make and maintain improvements in their child welfare workforce and (2) increase all forms of safe permanence; and
- Strengthening the current Child and Family Services Review process to increase states’ accountability for improving outcomes for children.

The Pew Commission supports “flexible” federal funding, as well as maintaining the entitlement nature of IV-E foster/adoption maintenance payments, but the commission does recommend eliminating the open-ended nature of IV-E administration reimbursements, which pay for staff and training.

The Pew Commission recommends that IV-E Administration and Training funds (along with Title IV-B discussed on page 7) be converted to a new, flexible grant. Through this grant, $200 million in new funds would go to states, at first according to their historical spending of IV-B and IV-E funds. Thereafter, the grants would increase annually by 2 percent plus the rate of consumer inflation. For Texas, this could mean somewhere between $6 million to $17 million in new funding for child protection.
Of course, these recommendations are not legislation, and the details of any legislation will determine whether such an approach might be advantageous for Texas. The key question is what it means for Texas to convert the administration and training funds from a matched entitlement to an indexed block grant. If growth in federally funded administration/training reimbursements is restricted, at some point Texas would have to fund future expansions of its CPS workforce entirely through its own General Revenue. This would not be advantageous for Texas. On the other hand, IV-E administration and training funds have not been used as extensively in Texas as they have been in other states, so the overall impact on state financing of child protection would not be felt as much.

The Pew Commission also recommends federal guardianship assistance, discussed in the CPPP Policy Brief on *Kinship Care in Texas*. Allocating state General Revenue to bring matching federal dollars for subsidized guardianship would be a significant step forward for Texas children.

Another Pew Commission recommendation that might benefit Texas is eliminating the “lookback” by disregarding the birth families’ income altogether in determining a child’s eligibility for Title IV-E funds. Right now, even as the number of children in foster care continues to grow in about half the states (mostly in the South and West), the federal government reduces states’ ability to use IV-E funding for foster care payments each year by the way it defines eligibility.

Before welfare reform in 1996, an abused child qualified for IV-E foster care if the child’s family was poor enough to qualify for Aid to Families with Dependent Children. AFDC was an open-ended entitlement, meaning that the federal government helped pay for every family who qualified. Likewise, the federal government helped to fund foster care for every abused child who qualified. In 1996, Congress replaced AFDC with Temporary Assistance for Needy Families, which is not an open-ended entitlement for every family but a fixed block grant for each state.

Having replaced the entitlement of AFDC with a TANF block grant, Congress had to adopt a new eligibility standard for foster care. Congress chose to require the states to “look back” to the AFDC income rules in effect on July 16, 1996, to determine eligibility for IV-E foster care. Thus, a child’s eligibility now turns on whether the child’s family as of today meets the criteria for AFDC in 1996.

Implementing this federal policy turns out to be even worse for Texas. On July 16, 1996, AFDC eligibility in Texas was the same as it had been in 1993. In other words, in 1996, Texas was already looking back to 1993. So now, Texas is looking back 11 years to determine eligibility. As the years pass, a smaller percentage of families will qualify as 1996 poor (or in Texas, 1993 poor), and consequently a smaller percentage of abused children will be entitled to federal IV-E funding.

Eliminating the “lookback” requirement would save states and the federal government money by simplifying the eligibility determination process for foster care. The American Public Human Services Association has proposed that when a state takes a child into foster care, the federal government pay a fixed percentage of the cost regardless of the income of the child’s family. Now the Pew Commission has endorsed a similar approach.

For more information on the Pew Commission recommendations, see [http://pewfostercare.org/](http://pewfostercare.org/).
State Improvements Also Being Studied

As mentioned earlier, the Department of Family and Protective Services has prepared an initial baseline budget request for 2006-07 that requests less General Revenue than the agency spent in 2004-05. However, several reviews of CPS, APS, and foster care are being conducted by legislators and other state officials that may build a case for increased baseline funding for child welfare and other FPS programs. This means that FPS might not have to request sorely needed improvements as “exceptional items,” which would be competing with all other agencies’ requests for additional and scarce General Revenue. Most of the studies have been triggered by public and legislative concern about child deaths across the state.

One of the Senate Health and Human Services Committee’s interim charges is to study and make recommendations about the revised foster care service levels and the tiered adoption subsidy program. The committee will also recommend ways to improve the recruitment and retention of foster care families.

The House Committee on Human Services has standing oversight of health and human services agencies, including CPS. The committee has been holding hearings on CPS. In addition, it has specific interim charges regarding CPS: (1) studying ways to increase the adoption of special-needs children, and (2) monitoring the implementation of Senate Bill 669 (78th Session), which requires police to accompany CPS workers on Priority I calls (reports of immediate risk of abuse or neglect that could result in death or serious harm).

The Inspector General of the Texas Health and Human Services Commission, at the direction of the Governor, has undertaken a 6-month review of CPS intake and triage of reported abuse or neglect complaints; CPS investigations; and agency assessments and determinations for placement and resolution. Review findings and recommendations should be available by January 2005.

Foster care has been reviewed in a study by the Comptroller of Public Accounts, first issued in April 2004 and updated in July 2004.

Finally, the House Select Interim Committee on Child Welfare and Foster Care is charged with examining child welfare and foster care in Texas, particularly with regard to:

- Barriers to adoption, specific to minority children, in foster care; activities that will increase the recruitment and retention of racial and ethnic minority families as foster care providers.
- Ways to promote substitute care with relatives of a child removed from the home by CPS.
- Licensure requirements for, and the performance of, all types of foster care facilities, including residential treatment facilities, wilderness camps, and emergency treatment centers; the adequacy of communication and interaction between the licensing agency and other state agencies that place children within the foster care and CPS system; and, other states’ efforts that will promote “best practices” and identify program efficiencies within the Texas child welfare system.

While some improvements may be possible with policy changes that do not require new taxpayer dollars, most of the significant reforms that are needed will require more state General Revenue and federal funds.

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Abuse is defined by the state as “mental, emotional, physical, or sexual injury to a child or failure to prevent such injury to a child.” Neglect is “failure to provide a child with food, clothing, shelter and/or medical care; and/or leaving a child in a situation where the child is at risk of harm.”


Texas Department of Family and Protective Services (DFPS) Letter to Select Committee on Child Welfare and Foster Care (2004).

DFPS, 2003 Data Book.

Kendra and Harold Hovey, *CQ’s State Fact Finder 2004*, CQ Press. This comparison uses the unduplicated number of children in foster care, a much higher figure than the average number.

*CQ’s State Fact Finder 2004*.


The DFPS budget in 2004-05 received $437 million in TANF federal funds in HB 1, 25 percent of the agency’s total appropriations.


Besides IV-E used at the state child welfare agency, the Juvenile Probation Commission and Youth Commission also receive federal IV-E funding.

Catalog of Federal Domestic Assistance, “93.658 Foster Care –Title IV-E.”

In fiscal 2003, Texas accounted for 3 percent of federal IV-E spending on administration and training, and for 8 percent of IV-B spending.

Texas differs from the nation in that Texas spends more IV-E on foster/adoption payments (58% of all federal IV-E funds it spent in 2002, compared to 50% nationally) and less IV-E on administration, training, and other uses (42% compared to 50%).


For more information, see [http://www.house.state.tx.us/committees/045.htm](http://www.house.state.tx.us/committees/045.htm).

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**HHSC Child Protective Services Hotline for Inspector General’s Review**

The Health and Human Services Commission’s Ombudsman Office, working with the Office of the Inspector General, has set up a toll-free hotline for people to report complaints in response to the Governor’s statewide investigation of CPS. If you have information or concerns about casework management or inaction when children have been in abusive situations, call (877) 787-8999.

You may also fax your information to (512) 206-4837, or e-mail information to [contact@hhsc.state.tx.us](mailto:contact@hhsc.state.tx.us)

Please include your name, telephone number, complaint and a case number, if you have one. All information will be confidential.

This is NOT the number to report suspected cases of child abuse. If you suspect a child has been abused or mistreated, you are required to report it to the Texas Department of Family and Protective Services or to a law enforcement agency. Call (800) 252-5400 or 911 if the child is in immediate danger.
The Texas Child Protection System

Civil

Child Abuse Reported to CPS 1-800-252-5400

Statewide intake gathers information on case

CPS Caseworker investigates
• Reason to Believe (RTB)
• Ruled out
• Moved
• Unable to Determine

Civil/Criminal Coordination

Is emergency removal necessary?

Yes

CPS Caseworker removes child

No

Is there enough evidence to seek court orders?

No

CPS offers family services

Yes

District Attorney files case

Case Closed

CPS Caseworker investigates

Case Closed when needs are met

Dismissal

Court Orders

Services

Removal and/or Services

Home 37%

Relatives: Guardianship 25%

Relatives: Adoption 6%

Other Adoption 18%

Emancipation 9%

Other 5%

Criminal

Child Abuse Reported to Law Enforcement 911

Statewide intake gathers information on case

Peace Officer investigates

Is there enough evidence to prosecute?

No

Case Closed

Yes

District Attorney files case

Grand Jury

No Bill

True Bill

Trial Court

Dismissed

Plea

Trial

NOTE: “Ultimate Outcomes” are based on DFPS data and shown only for children for whom DFPS had legal responsibility. Prepared by CPPP, October 2004.