



September 25, 2007

Texas Supreme Court

Proposed Judicial Commission on Children, Youth, and Families

*“Children do not slip through cracks in the system. Children slip through the fingers of our hands.”
CPS Caseworker*

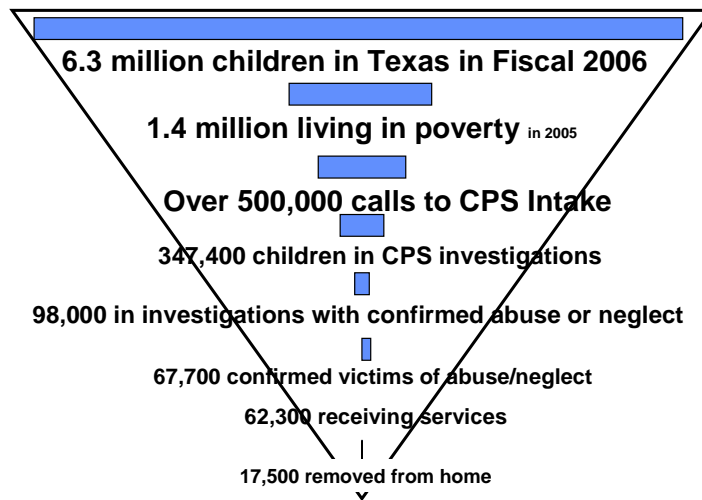
Introduction

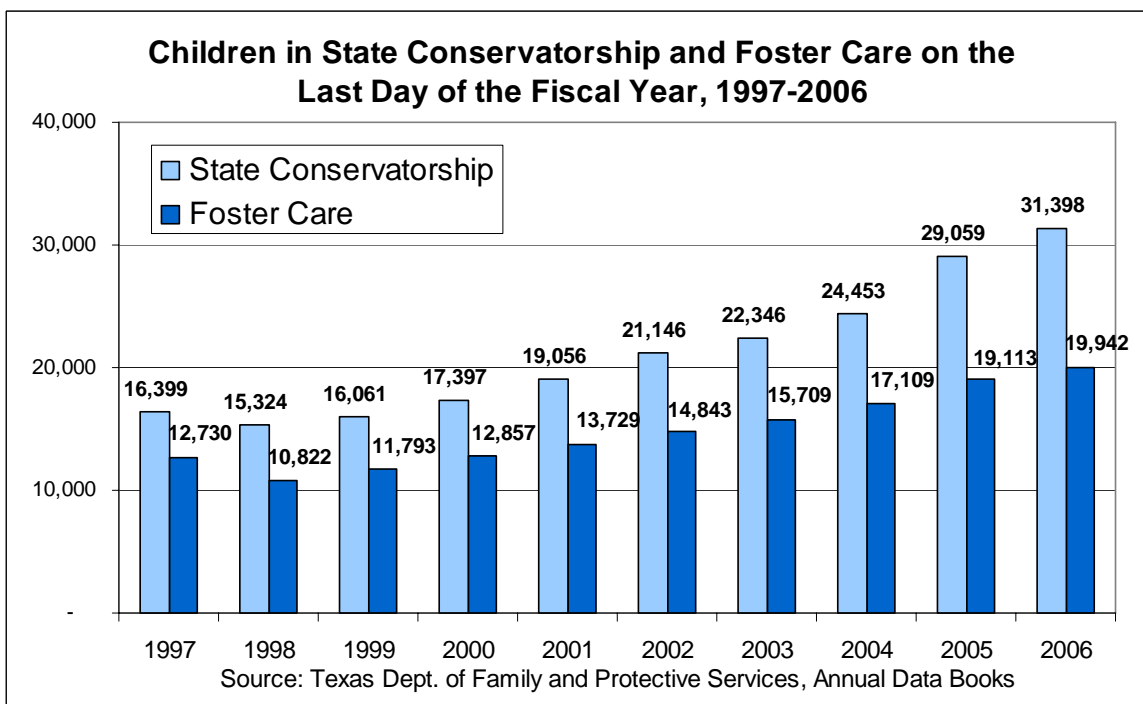
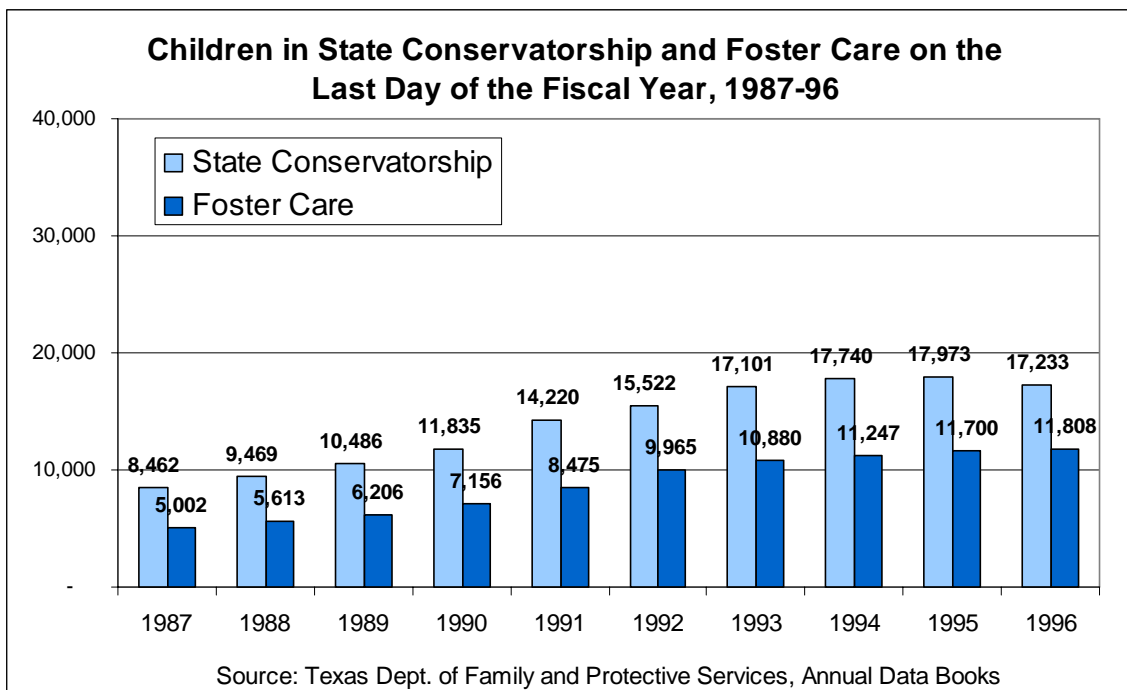
The Center for Public Policy Priorities is a nonpartisan, nonprofit research organization committed to improving public policies to better the economic and social conditions of low- and moderate-income Texans. We are the home of the Texas KIDS COUNT Project and have a long history of studying ways to improve the lives of children and families.

Last year, the Court appointed a distinguished Foster Care Consultative Group to advise it on the desirability and feasibility of a judicial commission on children, youth, and families.¹ We applaud the Court for asking for this study, and we support the study’s recommendations for a judicially appointed commission to oversee comprehensive court improvement and to foster collaboration to improve child protection.²

Overview of CPS System

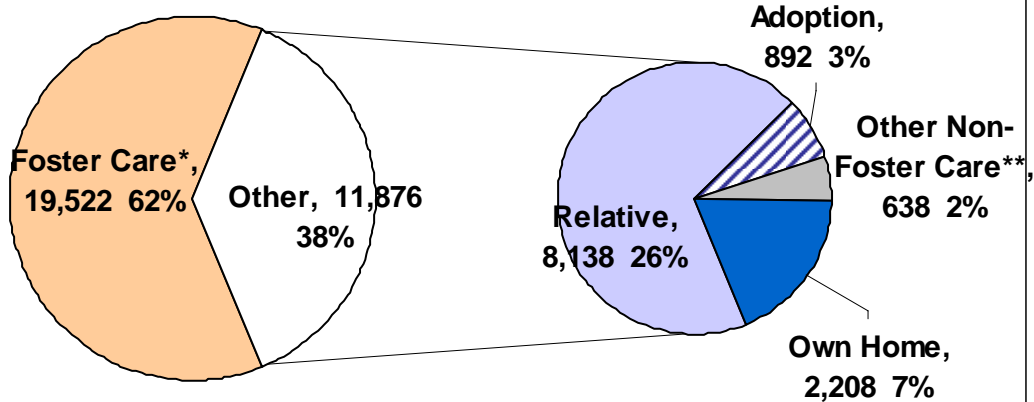
The inverted pyramid below presents a context for the size of the child protection system. The next two charts show the growing number of children and the following two the temporary and permanent placements for children in 2006. The last chart shows how we spend almost \$2 billion on the system.





Children in DFPS Legal Responsibility by Living Arrangement, End of Fiscal 2006

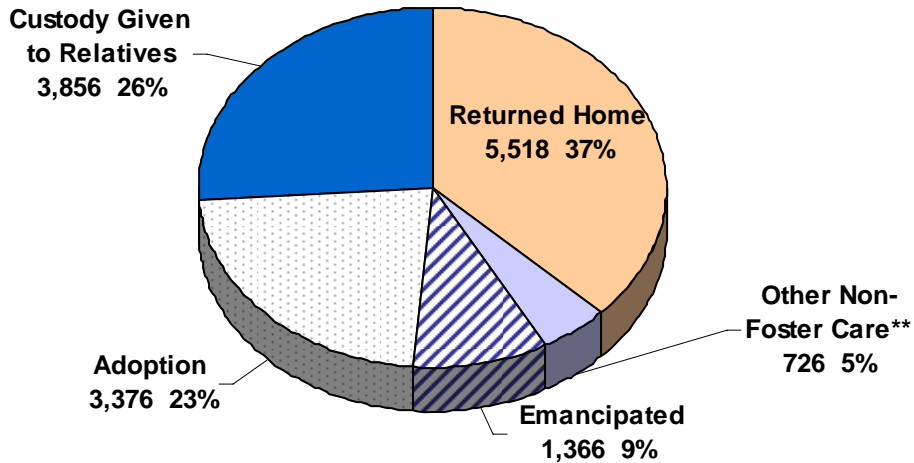
Total children: 31,398



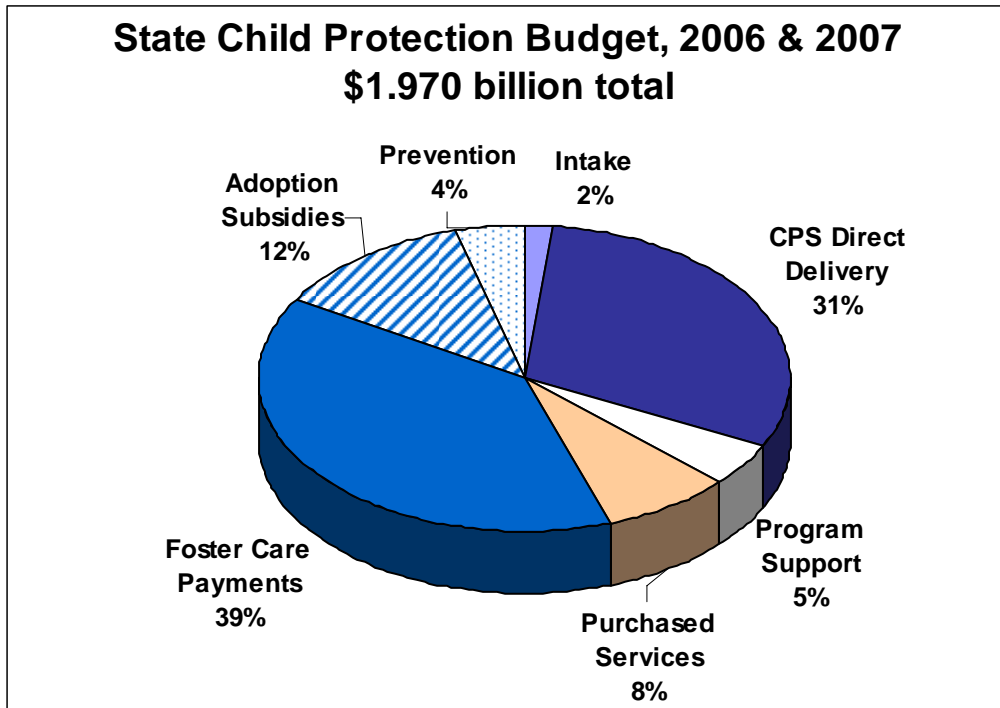
* Excludes youth age 18 or 19 who remain in foster care but have aged out of DFPS legal responsibility.
 ** Includes independent living, hospitals, nursing homes, correctional facilities, and unauthorized absence (left without permission). Source: DFPS 2006 Data Book.

Status of Children No Longer in DFPS Legal Responsibility, Fiscal 2006

Total children: 14,842



* Includes children absent without permission, children in court-ordered or independent living placements, children for whom conservatorship was never obtained, and children with a missing discharge reason. Source: DFPS 2006 Data Book.



Importance of Judicial Leadership

The Pew Commission on Children in Foster Care, a national blue-ribbon panel of child welfare experts, supports judicial leadership in child welfare:

Chief Justices and state court leadership must take the lead, acting as the foremost champions for children in their [child welfare] court systems.³

In July 2006, the National Council of Juvenile and Family Law Judges (NCJFCJ) adopted a resolution encouraging judicial leadership in juvenile and family courts.⁴ These dedicated and experienced judges concluded that “the success of our nation’s juvenile and family courts is directly related to the leadership provided by the juvenile and family court judges serving in them.”

Courts cannot be successful, however, in a dysfunctional system. Judges have to provide leadership to the system as a whole of which courts are a part. Experience shows that the “exercising of a proper judicial leadership role within the community to provide for better services for children and their families,”⁵ promotes change and improvement throughout the child welfare system. For that very reason, NCJFCJ “encourages judges to be leaders and to take action.”⁶ Because judges see cases from all perspectives, they have special insight into how the child welfare system needs to be improved. Moreover, judges have the influence to bring all the necessary parties to the table.

Congress also calls for judicial leadership. The federal government provides about 67 percent of the total cost of the Texas child protection system; thus, Congress has a big interest in ensuring that the system works for children and families and is cost effective. Congress has provided substantial funding for court improvement and encourages collaboration between courts, agencies, and communities.

The Role of a Commission

The Foster Care Consultative Group's report makes a strong case for a commission. Basically, a commission would function as an umbrella group for studying, planning, collaboration, and coordination to improve the child protection system. Much like the Access to Justice Commission, this new commission would leverage the resources of both the bench and the bar for the improvement of the administration of justice in the area of child protection. The commission would also provide the infrastructure to more effectively administer federal grant funds and leverage additional resources.

Addressing Concerns

Some may have concerns about the proper role of judges in establishing such a commission. Of course, judges must exercise leadership only in a way consistent with the Code of Judicial Conduct. As the center has previously written, however, judges can be leaders in system improvement consistent with the code of conduct.⁷ Indeed, a judicial commission can help organize judges and ensure that they exercise leadership in an appropriate manner.

Some may suggest that working to improve the child protection system is "social work," rather than judicial work. Such a suggestion, however, betrays a misunderstanding about the scope of responsibility of a modern judge. For example, judges work regularly to improve our criminal justice system. Indeed, judges administer the local adult probation system and the local juvenile probation systems. This work requires judges to become deeply engaged in budgets, management, and collaboration. Such engagement is required to fulfill the judicial responsibility to our citizens to ensure the effective administration of justice. Judges should be no less deeply engaged in making sure the child protection system works.

Finally, some might be concerned about the infrastructure required for a Judicial Commission on Children, Youth, and Families. Texas courts are responsible for ensuring the safety of and finding a permanent home for just over 30,000 children. An umbrella judicial commission to support this effort is not too much to ask, particularly since Congress is paying most of the bill and the one of the commission's jobs is to leverage other resources.

Conclusion

In closing, we urge the Court to appoint a judicial commission on children, youth, and families as recommended by your Foster Care Consultative Group.

¹ The Court's order is at <http://www.supreme.courts.state.tx.us/miscdocket/06/06916900.pdf>.

² The group's report is at <http://www.supreme.courts.state.tx.us/cip/reports/consultative-group-report.pdf>.

³ *Fostering the Future: Safety, Permanence, and Well-Being for Children in Foster Care*, Executive Summary, Pew Commission on Children in Foster Care, May 2004, at <http://pewfostercare.org/>.

⁴ National Council of Juvenile and Family Court Judges, Resolution No. 6 – Resolution Regarding Judicial Leadership in the Juvenile and Family Courts, adopted July 19, 2006, at <http://www.ncjfcj.org/images/stories/dept/publications/resolution%20on%20judicial%20leadership.pdf>

⁵ National Judicial Curricula Series, "Judicial Leadership and Ethics: Focused on Improved on Outcomes in Dependency Cases", NCJFCJ Permanency Planning for Children Department, December 2006, p 24.

⁶ Edwards, Judge Leonard (Ret.), "Some Thoughts on Judicial Leadership," *Juvenile and Family Justice Today*, Fall 2006, p. 11.

⁷ *Judicial Leadership and Child Protection* (CPPP January 2007) at <http://www.cPPP.org/files/4/JudicialLeadershipPolicyBriefFinal.pdf>.