HOUSE COMMITTEE ON HUMAN SERVICES
TEXAS HOUSE OF REPRESENTATIVES
2004

INTERIM REPORT TO THE
HOUSE OF REPRESENTATIVES
79TH TEXAS LEGISLATURE

CARLOS I. URESTI
CHAIRMAN

COMMITTEE CLERK
LAURA HOLLOWAY

Committee On
Human Services

December 30, 2004

Carlos I. Uresti
Chairman

P.O. Box 2910
Austin, Texas 78768-2910

The Honorable Tom Craddick
Speaker, Texas House of Representatives
Members of the Texas House of Representatives
Texas State Capitol, Rm. 2W.13
Austin, Texas 78701

Dear Mr. Speaker and Fellow Members:

The 78th Legislature's House Committee on Human Services hereby submits its interim committee report, including recommendations for legislation to be considered by the 79th Legislature.

Respectfully submitted,

Carlos I. Uresti

Elliott Naishtat

Arlene Wohlgemuth

Michael Villarreal

Wayne Christian

Brian McCall

Sid Miller

Dora Olivo

Elvira Reyna

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Vice-Chairman

Members: Wayne Christian, Brian McCall, Sid Miller, Dora Olivo, Elvira Reyna,
CBO - Arlene Wohlgemuth, Michael "Mike" Villarreal

TEXAS HOUSE OF REPRESENTATIVES

TOM CRADDICK
SPEAKER

April 27, 2004

The Honorable Carlos I. Uresti
State Representative
Capitol Extension, Room E2.722
Austin, Texas 78701

Dear Carlos:

In light of recent developments regarding the Governor's Executive Order RP33 on Adult Protective Services, I ask that your committee monitor and assess the changes that the Health and Human Services Commission produces upon completion of their work. I believe you have received the information from Judge Max Higgs in El Paso that outlines a number of reasons for the critical nature of this issue. I have enclosed a copy of the order.

Additionally, as you know, the issue of adoptions and foster care in our state has and continues to be a critical need of focus and attention. My hope was the production of a consensus report on how the House of Representatives should move forward on these critical issues, thus the reason I appointed a special Select Interim Committee on Child Welfare and Foster Care. Many of these issues cut across jurisdiction of various committees.

In order to reduce duplication of efforts and to focus the burden of questions that are upon the Department of Family and Protective Services, I am eliminating charge number one for your committee, which stated, "Study ways to increase the adoption of special-needs children through efficiency in the Adoption Assistance Program." Thus, the committee may focus its report and work on the remaining charges instead.

Because of the expertise and interest of your committee, I know that Representative Suzanna Hupp welcomes any members, including yourself, to sit in on the deliberations and study of the Select Committee on Child Welfare and Foster Care. Due to the complexity of these issues, I am asking her to include this charge and analysis in their study since the issues of foster care and adoption are integrally tied together.

Thank you for your leadership on Human Services and your flexibility in this matter.

Sincerely,

TOM CRADDICK
Speaker

TC/tat
Enclosure

cc: The Honorable Suzanna Hupp
Albert Hawkins, HHSC
Thomas Chapmond, DFPS

TABLE OF CONTENTS

INTRODUCTION 6

INTERIM STUDY CHARGES AND SUBCOMMITTEE ASSIGNMENTS 9

LETTER FROM SPEAKER TOM CRADDICK 3

CHARGE TWO
Adult Protective Services
- Background 10
- Conclusion 43
- Recommendations 45

Child Protective Services *(Note: Conclusions follow each CPS subsections.)*
- Background 49
  - CPS: Organization, Policies & Procedures 50
  - Child Abuse Prevention & Early Intervention 77
  - Family Based Services 88
  - Community Partnerships 90
  - Data Sharing and Information Technology 98
  - Transitioning Youth 104
  - Psychotropic Medications 112
  - Privatization 118
  - Legal Actions against States that Fail to Protect Children 123
  - Funding for Child Protective Services 126
- Recommendations 133

CHARGE THREE
- Background 151
- Conclusion 160
- Recommendations 161

CHARGE FOUR
- Background 162
- Conclusion 166
- Recommendations 167

CHARGE FIVE
- Background 168
- Conclusion 169
- Recommendations 171

CHARGE SIX
- Background 171
- Conclusion 184
- Recommendation 185

References 186

Appendix 188

INTRODUCTION

The Committee on Human Services submits its Interim Report following a period of intense change, challenge, and tragedy in the Texas human services enterprise. Following legislative reforms made during the 78th Session, Texas began a restructuring effort that resulted in the consolidation of the State's human services agencies under one umbrella: the Health and Human Services Commission (HHSC). This consolidation continues to unfold into a new health and human services organization, but the familiar, vexing problems it was designed to address remain.

Texas is a dynamic state with a history unlike any in the nation -- and a future to match. Our economy, diverse and growing population, and natural resources have propelled us to a position of national prominence and influence. While our future rests upon a firm foundation of previous accomplishment, our past alone does not guarantee success. Building a stronger and healthier Texas requires an investment in the development of better solutions to severe and growing problems that seriously impact the quality of life for all Texans. For example:

- One out of thirteen children in the United States is a Texan, but one out of six Texas children lives in poverty.

- More than 50,000 cases of child abuse and neglect are confirmed in Texas each year, with an estimated two out of three cases going unreported.

- Texas spends 60% less than the national average on child protection.

- Abuse and neglect of the elderly and disabled resulted in more than 44,000 confirmed cases reported to Adult Protective Services (APS) in 2003.

- Roughly ten percent of the Texas population is comprised of immigrants; and more than 88,000 legal immigrants settled in Texas in 2002 alone. Nevertheless. current federal welfare policy does not extend benefits to legal immigrants, increasing the strain on state human services agencies.

- Despite the apparent link between healthy marriages and improved health and safety for children, Texas claims one of the highest divorce rates in the nation.

Despite large scale efforts to reform the way Texas provides human services to its population, current levels of need outstrip the policies, funding, and infrastructure necessary to address them. While all of the Committee charges dealt with issues of vital concern to Texas, none illustrated the effects of the disparity between need and resources more forcefully than Charge 2, which ordered the Committee to study the incidence of abuse and neglect among individuals in community care. Many Texans were first alerted to problems among our most vulnerable populations last year when the media reported on multiple tragedies involving children and adults in the care of Adult Protective Services (APS) and Child Protective Services (CPS). For example:

- Diamond Alexander was taken from her mother after she was born with drugs in her system. The infant remained in state care for two years, but CPS finally determined that reunification was safe, despite the fact that her mother had lost her parental rights to

three other children; she had voluntarily given up her rights to another child; and she appeared to have given birth to another child whose whereabouts. Diamond was reunited with her mother, but there was limited communication between CPS and the mother immediately thereafter. Six weeks after reunification, Diamond's mother beat her to death. She was 2 years old at the time.

- Jovonnie Ochoa entered the CPS system at birth when his family was offered services to help keep the family together. His mother left the child and his siblings with his grandmother, after which CPS lost track of the child. The boy was found dead in his grandmother's home on December 25, 2003, weighing 16 pounds at four years of age. He had been bound to a bed and starved by his own family for weeks before he finally died.

- Numerous elderly adults living in unsafe homes in El Paso were visited by APS, but were judged mentally competent to refuse services from the agency after completing a standardized five item questionnaire. The elderly individuals were allowed to continue living in unsafe quarters and in states of filth and disorder that lead to the loss of life and/or bodily injury.

Perhaps more tragic than the fates of individuals dependent upon the care of the State is the fact that these deaths and injuries are neither rare nor unforeseeable.

The Committee's hearings revealed that APS and CPS are stretched to the breaking point by staggering caseloads, inadequate staffing, insufficient training, and massive turnover. Driving these problems is a steadily increasing number of abuse and neglect cases that is poised to grow with the Legislature's failure to support a strategy of coordinated prevention and intervention programs. Our continued inattention to prevention is making the provision of quality human services an impossibility, as well as a perpetual game of "catch-up".

Texas lacks a coherent strategy to both lower the need for human services and adequately provide them for those in true need. In short, it is time to devote as many resources to prevention as we do to cures. Without implementing policies that ultimately reduce the need for costly state programs designed to care for individuals *after* their lives are shattered, the citizens of Texas can expect a rising tide of need that will result in enormous costs to our state in human and monetary terms. Until that strategy is designed and agreed upon by the Legislature, however, the need for immediate action is real. The Legislature should act quickly to provide emergency assistance and funding to agencies charged with the responsibility to protect our most vulnerable citizens. It is a matter of life and death.

The breakdown in CPS and APS is not an exception in the spectrum of our human services endeavors. For example, during the 78th Session, the Legislature made cuts to the Children's Health Insurance Program (CHIP) that rendered 150,000 Texas children ineligible for medical insurance. Whether poor children have health insurance or not, illness continues. Children cut from CHIP still require medical care, and we are a compassionate society that will eventually provide it. However, our decision to prevent low-income parents from accessing more reasonably priced medical options for their children through CHIP will lead many to seek care through costly emergency room visits that compound our already massive healthcare costs. The short-term cost savings Texas realized during the last biennium through cuts to CHIP will likely haunt us in the future.

Texas requires a new spirit within the entire human services enterprise, and it must pervade everything we undertake. We must demand accountability from the Legislature, as well as the agencies it entrusts to care for our most vulnerable with valuable taxpayer resources. It should be our priority to simultaneously design strategies that reduce the need for costly social services through upfront investments in strong prevention and early intervention programs, while ensuring that we compassionately and efficiently deliver needed services to those who cannot be helped in any other way. And all of our human services efforts must be designed to emphasize the goal of creating the maximum level of self-reliance for all Texans, while acknowledging that there will always be some among us who will require the protection and care of a kind society.

Proverbs 29:18 states: "Where there is no vision, the people will perish". Under the leadership and vision of Speaker Craddick, coupled with a sincere bipartisan effort this next legislative session, Texas has an opportunity to make history by creating a compassionate and effective agency that protects those who can not protect themselves. Such a vision should compel us to prevent suffering when we have the means to do so; to help the able to help themselves; to care for the vulnerable, helpless, and hopeless; and to provide these services with a respect for the public trust that citizens and taxpayers demand. Such a vision expresses the fiscal and moral soundness of Texan values, and will contribute to a brighter future for our great state.

HOUSE COMMITTEE ON HUMAN SERVICES
INTERIM STUDY CHARGES AND SUBCOMMITTEE ASSIGNMENTS

CHARGE ONE
Study ways to increase the adoption of special needs children through efficiency in the Adoption Assistance Program.

Charge One was reassigned to the Select Committee on Child Welfare and Foster Care, chaired by Representative Suzanna Hupp.

CHARGE TWO
Study the incidents of abuse and neglect of individuals receiving services in community care settings. The committee will evaluate the effectiveness of procedures to prevent abuse and neglect, methods to streamline reporting and investigations, and the adequacy of available enforcement mechanisms.

CHARGE THREE
Assess the effectiveness of new marriage promotion initiatives in the Temporary Assistance For Needy Families (TANF) program.

Charge Three was referred to a subcommittee chaired by Representative Elvira Reyna.

CHARGE FOUR
Monitor congressional re-authorization of TANF and child care programs and the impact of federal policy changes on Texas' welfare reform efforts. Report any needed policy changes to accommodate new federal policy for the 79th Legislature.

Charge Four was referred to a subcommittee chaired by Representative Elliott Naishtat.

CHARGE FIVE
Monitor the implementation of HB 669, 78th Legislature, which mandates police presence with Child Protective Services workers during priority calls. The study should include, at minimum, the impact on victims, parent cooperation and local law enforcement availability.

CHARGE SIX
Monitor agencies and programs under the committee's jurisdiction.

CHARGE TWO: Study the incidence of abuse and neglect of individuals receiving services in community care settings. The committee will evaluate the effectiveness of procedures to prevent abuse and neglect, methods to streamline reporting and investigations, and the adequacy of available enforcement mechanisms.

Individuals receiving community care as children or elderly and disabled adults interact primarily with the Adult Protective Services (APS) or Child Protective Services (CPS) agencies in the state of Texas. After receiving Charge Two, it was determined that a thorough review of both the CPS and APS agencies would allow the Committee to accomplish its mission in the most effective manner. Therefore, the following section of the Interim Report addresses Charge Two in the two subsections below: subsection A discusses the Committee's findings relative to APS, while subsection B discusses the Committee's findings relative to CPS.

A. Adult Protective Services

Background

Although testimony before the Committee indicated that many stakeholders have been aware of problems with the APS system for some time, much of the attention currently focused on APS was the result of the efforts of Probate Judge Max Higgs and attorney Terry Hammond in El Paso. The professional experiences of the two gentleman made them intimately familiar with the agency, and their alarm over its failures to protect individuals in its care caused them to mount a campaign to alert lawmakers and the public to horrific instances of abuse and neglect among El Paso area residents. Following widespread media coverage of apparent APS failures in El Paso and other cities in Texas, Governor Rick Perry issued Executive Order RP 33[1] to investigate the apparent crisis within APS throughout the state.

APS MISSION:

To protect older adults and persons with disabilities from abuse, neglect and exploitation by investigating and providing or arranging for services as necessary to alleviate or prevent further maltreatment.

In remarks submitted to the Committee, Mr. Hammond stated, "The Texas Department of Family and Protective Services - Adult Protective Services System has, by the design of its architects and through acquiescence of the Legislature, been allowed to become one huge … bureaucracy which has shaken loose from its moorings and has lost sight of its prime directive -- to protect the elderly and disabled of our state." To illustrate, Mr. Hammond reported several instances wherein the alleged failure of APS to investigate reports of neglect, abuse, and exploitation allowed elderly and disabled adults to live in situations that endangered their health and lives:

- An 86-year old woman lived in a Honda Civic outside of her home because she could not navigate her way through 18 tons of debris she had hoarded in her home. APS, after receiving a psychological report indicating the woman was "losing touch with reality", allowed her to continue living in the car until she broke her hip and was out all night in freezing temperatures before being found by a neighbor with an 85 degree body temperature.

- A 94-year old man was taken to get a home equity loan by a caretaker who took the money and left the elderly man with the note. The man, who was blind and had

dementia, had to leave his home and died in foster care. APS failed to act to prevent the exploitation and resulting harm to the elderly man.

- A woman with more than 100 cats living in her home was attacked when she brought food to them. The home was full of urine and fecal matter. When a family member contacted APS and asked for help, the caseworker said he could not get past the gate and thus could not help the woman. The woman was found dead two years later, her body having been devoured by the cats.

These incidents were reported to the Committee as examples of abuse and neglect that are, unfortunately, not uncommon in the state today. Overburdened, poorly equipped and poorly supervised, under-funded, and guided by questionable policies, APS consistently fails to fulfill its core mission. Administrators, caseworkers, critics, advocates, and citizens alike have agreed that the agency is in crisis.

I. Neglect and Abuse of the Elderly and Disabled

Because much of APS' caseload results from the abuse, neglect, and exploitation of elderly and disabled adults, a word about this type of maltreatment and its incidence is warranted.

Elder abuse experts have long believed that reported elder abuse cases make up only the "tip of the iceberg." The 1998 National Elder Abuse Incidence Study (NEAIS), the most definitive study on elder abuse to date, found that:

- At least half a million older persons in domestic settings were newly abused, neglected, and/or exploited, or experienced self-neglect, in 1996.

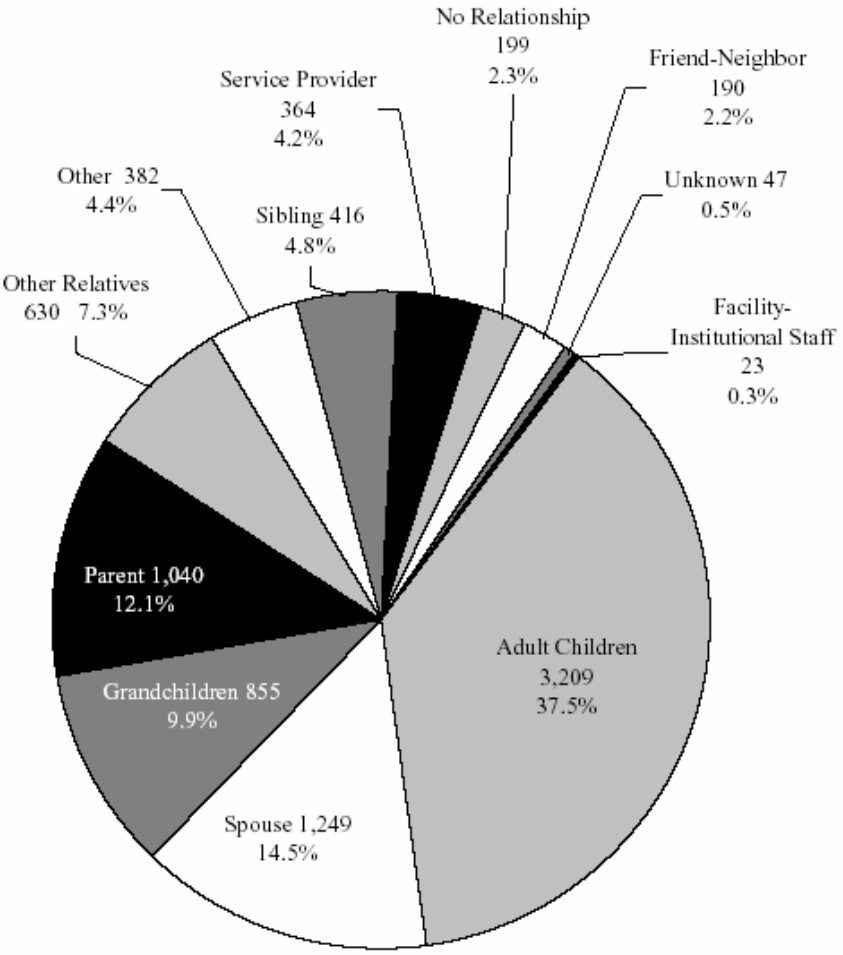
- For every reported incident of elder abuse, neglect, exploitation, or self-neglect, approximately five go unreported.

- Only 16 percent of the abusive situations are referred for help - 84 percent remain hidden. [2]

Some studies estimate that between three and five percent of the elderly population has been abused.[3] The United States Senate Special Committee on Aging estimates that there may be as many as five million victims every year.[4] Figures on the abuse and neglect of the disabled are difficult to secure. The disabled population, however, is not homogenous, and there is little data covering their maltreatment as a whole.

The horrific instances of abuse and neglect reported last year by the media in Texas only begin to tell the story of human suffering occurring throughout the state on a daily basis. As the primary agency charged with securing the safety of elderly and disabled Texans, APS is the frontline defense against this scourge. Its failure or inability to effectively combat abuse, neglect, and exploitation means the state is extremely vulnerable to a massive and growing threat to its aging and disabled populations.

Perpetrators in Confirmed In-Home Cases
Fiscal Year 2003



Note: Each victim may have more than one perpetrator at the end of the investigation.

Allegations in Confirmed APS In-Home Investigations Fiscal Year 2003

Allegation	Number of Allegations	Percentage
Emotional/Verbal Abuse	1,956	4.4%
Exploitation	1,910	4.3%
Medical Neglect	6,593	14.8%
Mental Health Neglect	1,921	4.3%
Physical Abuse	2,874	6.4%
Physical Neglect	28,819	64.4%
Suicidal Threat	392	0.9%
Sexual Abuse	229	0.5%
State Total	44,694	100.0%

II. Executive Order RP 33

In response to reports of widespread problems within the APS agency and among the disabled and elderly adults in its care, Governor Rick Perry issued Executive Order RP 33 on April 14, 2004, requiring the following:

- *Systemic Reform.* The Health and Human Services Commission, considering this effort of the highest priority, shall direct and oversee the systemic reform of the Adult Protective Services program, focusing on the need to protect older adults and persons with disabilities from abuse, neglect, and exploitation. The Commission shall request assistance from additional state agencies as needed to ensure an appropriate and comprehensive reform of the program.

- *Review of Case Files.* The Health and Human Services Commission shall immediately begin an independent review of previously closed cases in the Adult Protective Services program, prioritizing cases for review, determining whether regulations have been consistently followed, and taking immediate corrective measures in cases where needed. The Commission shall ensure that any necessary and appropriate disciplinary action be taken in response to all cases identified as having been mishandled, particularly if injury or death resulted from inappropriate action. The Commission shall use information collected from these case reviews to ensure the reforms to the Adult Protective Services program promote the continued health and safety of older Texans.

- *Administrative Reform.* The Health and Human Services Commission shall conduct a comprehensive administrative reform of the Adult Protective Services program, including developing new training procedures, developing minimum qualifications for caseworkers and supervisors, and ensuring the effective application of all state statutes and policy requirements to protect the safety and well-being of older adults and persons with disabilities.

- *Organizational Reform.* The Health and Human Services Commission shall conduct a comprehensive organizational reform of the Adult Protective Services program to ensure the appropriate placement of state resources and program supervisors for proper and sufficient regional oversight and communication, the effective application of all state statutes and policy requirements, and the most appropriate outcomes for older adults and persons with disabilities.

- *Increase Use of Technology.* The Adult Protective Services program shall consistently take advantage of new technology, such as digital cameras and wireless communication devices, to improve the quality of services, monitoring and investigation of cases.

- *Partner with Law Enforcement.* The Texas Department of Public Safety is directed to give high priority to investigating and addressing any potential criminal cases of elder abuse and neglect. Additionally, the Department of Public Safety shall coordinate with municipal and county law enforcement and the Health and Human Services Commission staff members to provide assistance as needed in conducting home and institutional visits of elders and persons with disabilities and to develop appropriate training on investigative techniques for these cases.

- *Partner with Local Communities.* The Adult Protective Services program shall work with community partners to establish permanent cooperative relationships in local communities to prevent and raise awareness of the abuse, neglect, and exploitation of older Texans and persons with disabilities. These partnerships shall include the primary care and geriatric medical community, the mental health community, local area agencies on aging, victims' rights groups, advocate groups, legal experts, courts, law enforcement as well as any other local or unique community resources necessary.

- *Review of State Policy.* The Health and Human Services Commission and the Adult Protective Services program shall review and adopt new rules and policies, including the development of a new and appropriate screening tool, which may be necessary to implement this Executive Order. These policies shall take into consideration all aspects of the person's situation from their cognitive abilities to the environment in which they live, so that the rights of the individual are balanced with the requirement that they live in a healthy and safe environment.

- *Review of Statute.* The Health and Human Services Commission and the Adult Protective Services program shall review and make recommendations regarding any changes in statute which may be required.

- *Report of Compliance.* The Health and Human Services Commission shall oversee the development and submission of an implementation plan and a final report of the implementation of this order. The implementation plan shall outline the specific actions taken to implement this order and shall be submitted no later than 90 days of the date of this order. The final report shall review all actions taken, as well as the recommended statutory changes developed in compliance with the Order, and shall submit this report to the Office of the Governor no later than November 1, 2004.

- *Full Cooperation.* All affected agencies and other public entities shall cooperate fully with the Health and Human Services Commission during the research, analysis, and implementation of this order.[5]

III. APS -- Agency Overview

APS Fiscal Year 2003 Staffing and Projected Expenditures

APS Staff Costs **$26,905,297**

- 564 Direct Delivery (supervisors, workers, clerical)
- 599 Total Staff

MHMR Investigations Staff Costs (all settings) **$5,896,933**

- 128 Direct Delivery (supervisors, workers, clerical)
- 135 Total Staff

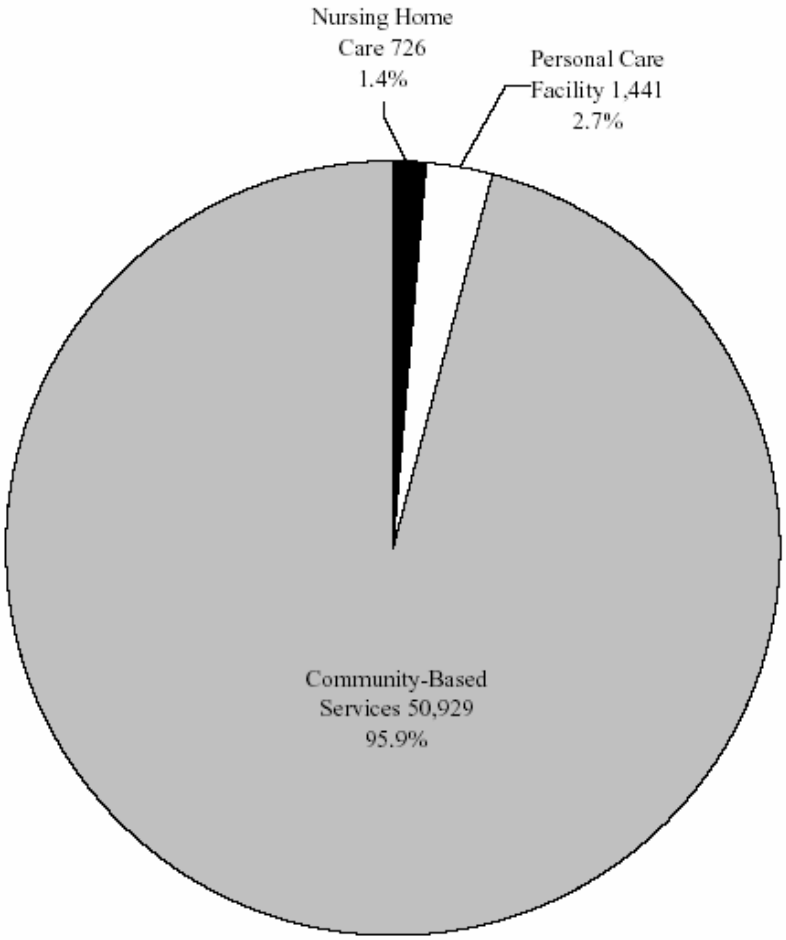
Purchased Services **$3,353,048**

- Emergency client services
- Emergency shelter
- Nutrition/food
- Personal needs
- Medical supplies
- Guardianship contracts

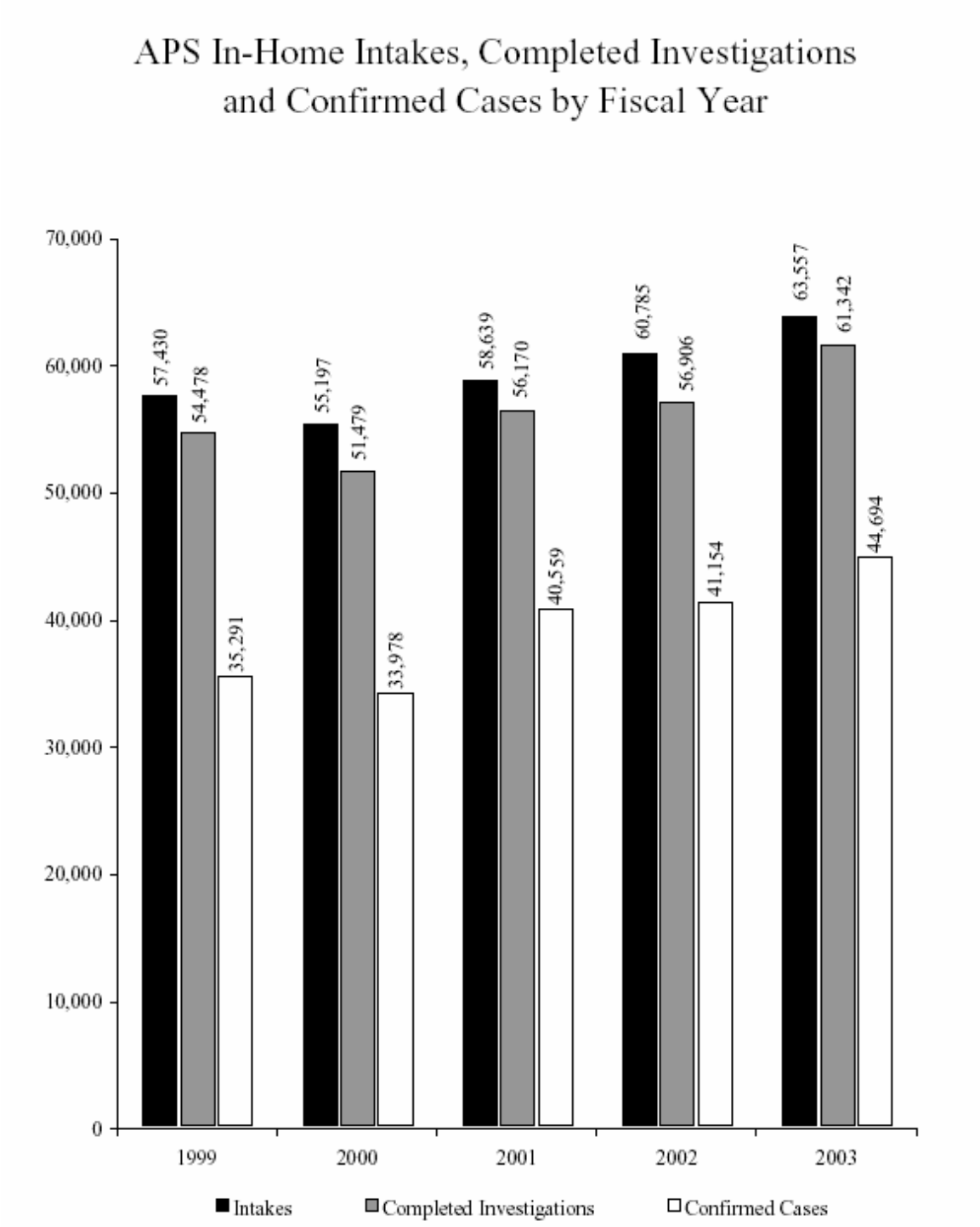
Average Worker Tenure in APS In-Home Program
Fiscal Year 2003

Tenure	Workers	Percentage
Under 1 Year	27	8.9%
1 Year	47	15.5%
2 Years	20	6.6%
3 Years	33	10.9%
4 Years	30	9.9%
5 Years	19	6.3%
6 - 9 years	63	20.6%
10 - 18 years	65	21.3%
State Total	304	100.0%

APS Clients Receiving Nursing and Personal Care Facility Placements versus Community-Based Services Fiscal Year 2003

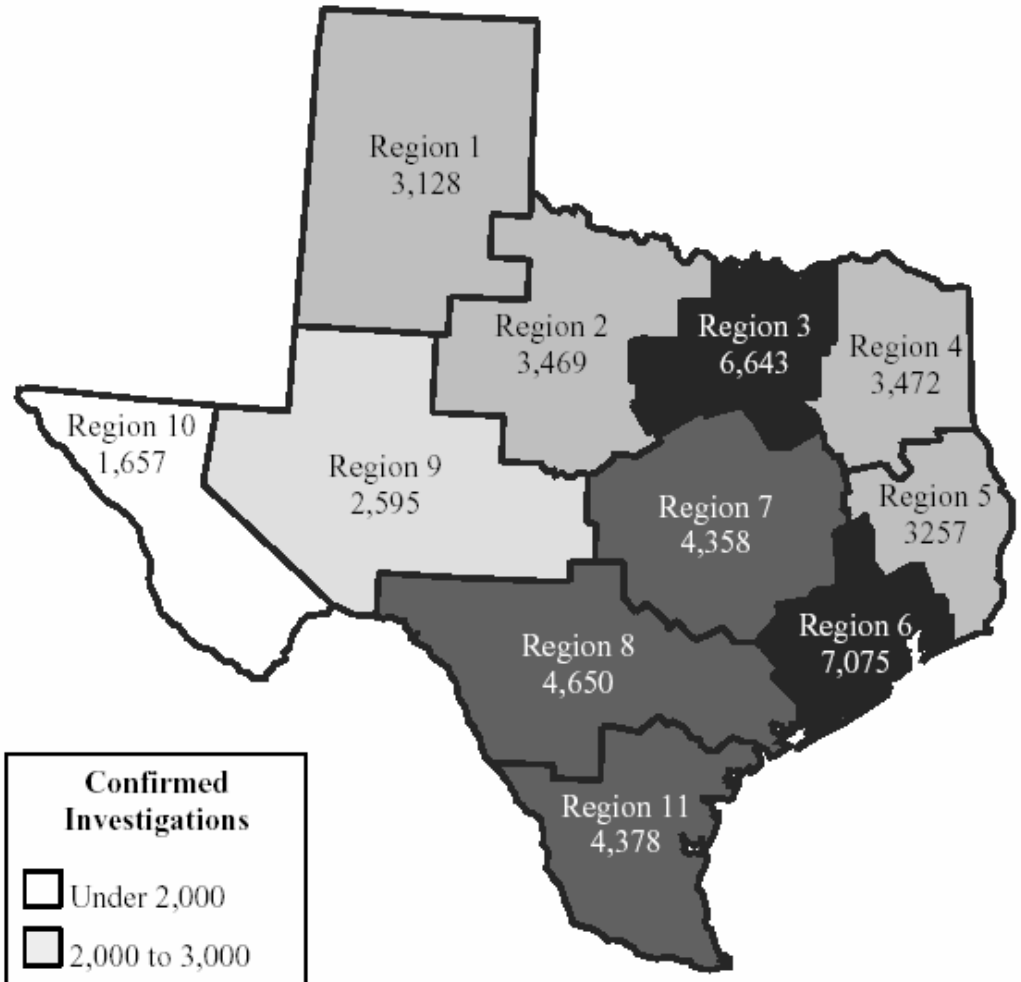


Reports and Investigations



APS Confirmed In-Home Investigations by Region
Fiscal Year 2003

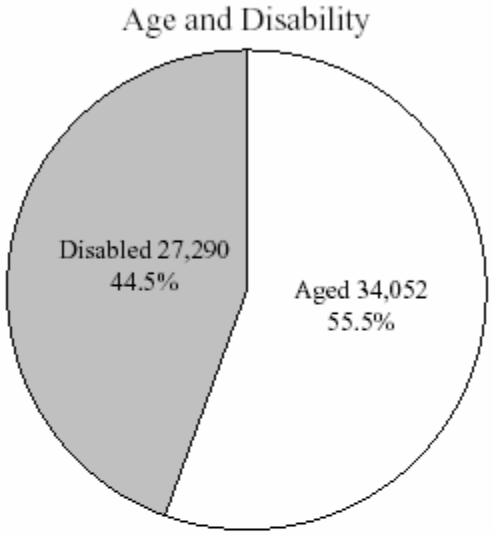
State Total: 44,694*

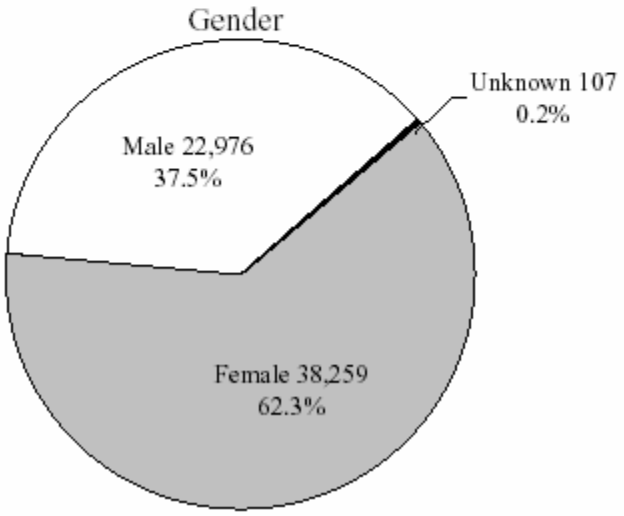


* 12 cases were confirmed with no region designated.
Note: The number of confirmed investigations is equal to the number of confirmed victims.

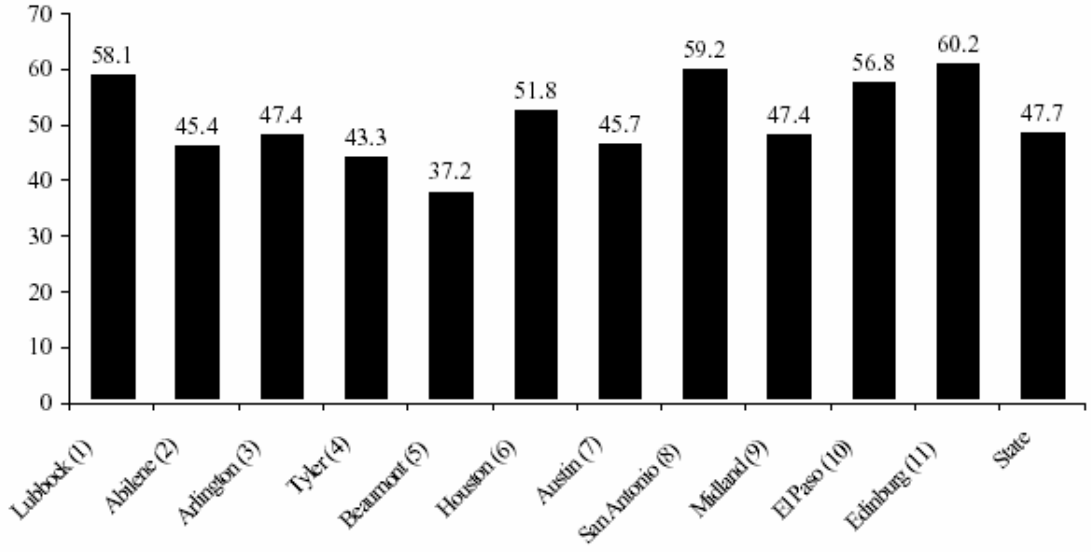
Characteristics of APS In-Home Clients in Completed Investigations Fiscal Year 2003

State Total 61,342



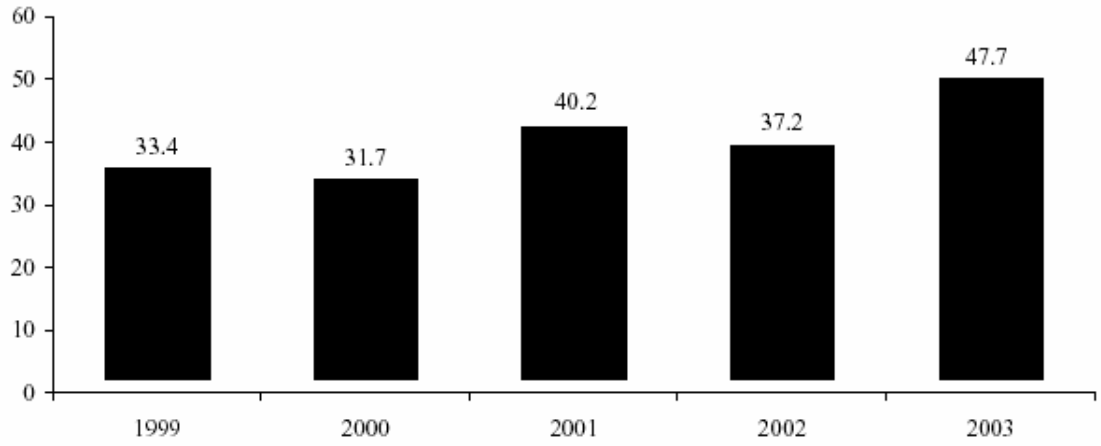


Average Monthly Workload Equivalency Measure for APS In-Home Caseload per Worker by Region for Fiscal Year 2003



Note: In fiscal year 2003 DFPS implemented a new methodology for calculation of the Average Monthly Workload Equivalency Measure caseload per worker.

Average Monthly Workload Equivalency Measure for APS In-Home Caseload per Worker by Fiscal Year



IV. HHSC Investigation and Reports

Following Governor Perry's Executive Order RP 33, a review team led by HHSC senior leadership arrived in El Paso on April 14, 2004 to begin case reviews and interviews with APS staff and community stakeholders. The team consisted of HHSC executive staff and staff from the Office of Inspector General and HHSC/DFPS Internal Audit. Initial review of over 1,200 cases for 200 persons focused on cases within the last two years that involved three or more referrals to APS.

The HHSC investigation resulted in a preliminary 30 Day Preliminary Report, a 90 Day Implementation Plan, and a final report. Highlights of these reports appear below. Members of the House are urged to review the contents of the entire 30 and 90 Day Reports (issued on July 12, 2004) for the complete findings.

As part of the internal review process conducted by HHSC, workgroups were convened to study all aspects of the APS system. In the 90 Day Implementation Plan, it was determined that

- *The goals of APS are not well defined*. Ill-defined goals result in various interpretations of the scope of APS activities and inconsistent application of policies and procedures. Internally, staff in one region may focus on determining capacity, while in other regions staff may focus on providing non-protective service delivery to clients (i.e., services which do not relate directly to the reduction of risk). Externally, this lack of clarity results in variations regarding how, and when, APS interacts with local community organizations.

- *There is not a clear delineation of the APS process steps*. While each case referred to APS is different, the basic APS process should be the same for every case. The handbook offers minimal guidance for key decision points and even less for direction regarding the criteria and decision processes. Without such specificity in the decision making process, there is great variation in how decisions are reached and the appropriateness of these decisions. Clear, well-reasoned, and uniform decision-making criteria needs to be incorporated in each stage of the APS process and outlined in the APS handbook and training curriculum.

- *There are few performance standards for the APS process*. Appropriate performance criteria for what constitutes a good investigation or a good service delivery plan are lacking in the APS process. Current criteria appear to be subjective; therefore, it is difficult to measure staff performance. When management does have performance indicators, such as number of days an investigation is open, there are no clear standards for staff to follow. This lack of standards impairs the ability to effectively manage time and resources, to ensure quality investigations, and maintain accountability.

HHSC determined that these three fundamental issues underlie virtually all deficiencies identified with the APS program. It is critical that these deficiencies are remedied to ensure that the mission and goals of the program are accomplished.

Findings of the 30 Day Preliminary Report

The HHSC investigation in El Paso revealed the existence of the following APS issues:

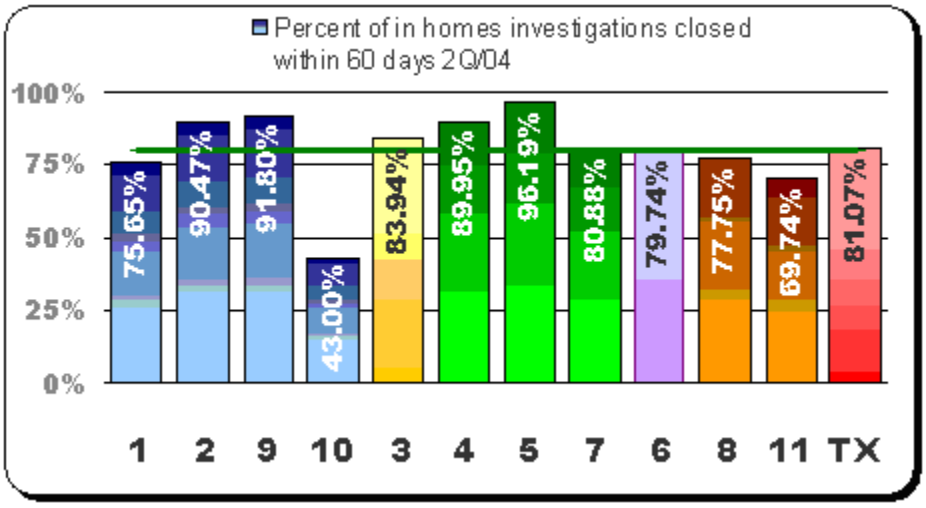
Case Readings: Serious problems exist in casework, including poorly performed assessment, inadequate documentation, and lack of appropriate follow-up activities.

For all cases reviewed (Each question was asked for each case. Percentages are not cumulative.):

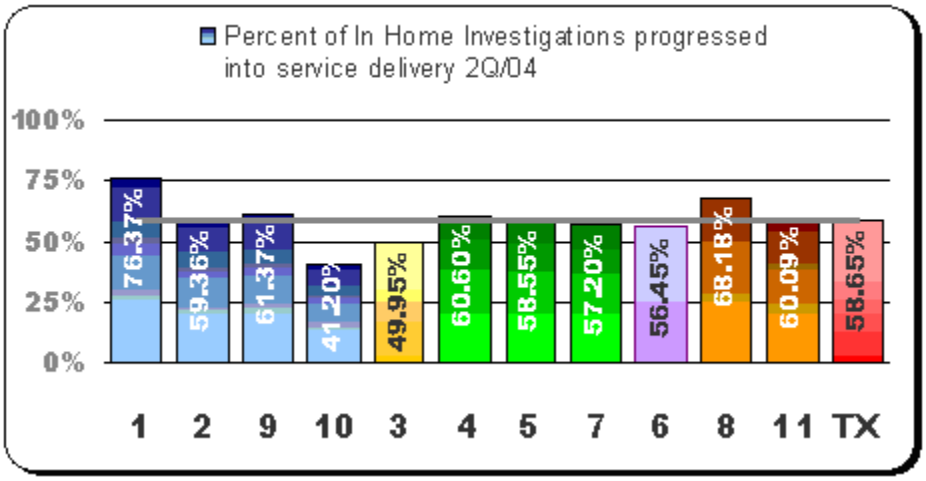
- In 35 percent, the investigation did not fully address all allegations of abuse, neglect or exploitation.
- In 32 percent, the caseworker did not obtain and document enough evidence to reach a conclusion.
- In 30 percent, the actions (service plan) taken did not address all findings of abuse, neglect, or exploitation.
- In 41 percent, appropriate action to prevent further abuse, neglect or exploitation of the client was not taken.
- In 35 percent, where there was a threat or a risk to the client's health or safety in the client's environment, the service plan did not address the threat.
- In 41 percent, the client was determined to have mental illness.
    - In 44 percent of the 41 percent where mental illness was identified, no steps were taken to address any special needs related to the mental illness.
- In 48 percent, there were other indications in the client's behavior, environment, and history or in the testimony of others that indicated capacity was questionable.
- In 71 percent of cases where mental illness was identified or strongly indicated, the capacity questions were not asked of the client nor was a clinical assessment of the client's capacity conducted.
- In 57 percent, where the cases were considered severe, client contact was no more frequent than less severe cases.
- In addition, independent fact checking by audit staff indicates that in many instances APS caseworkers did not verify information collected in the investigations.

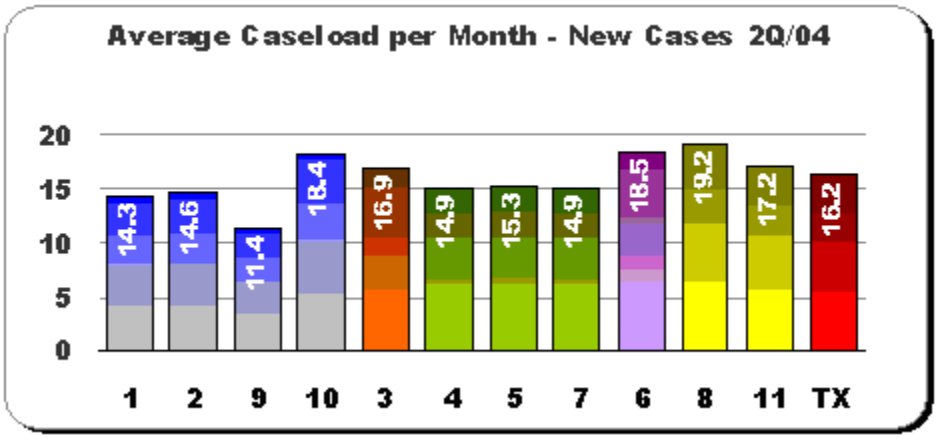
Performance: Program performance levels in Region 10 compare poorly with statewide averages.

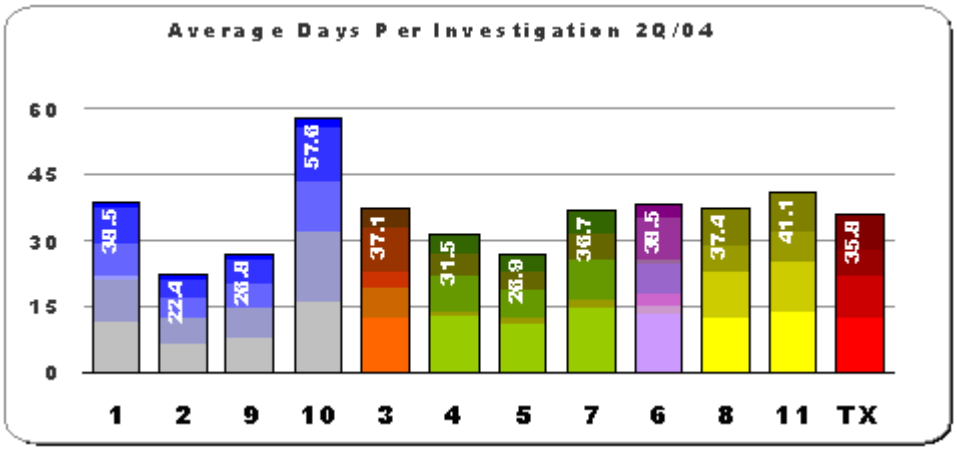
The following charts describe data on closed cases, service delivery, caseload, and average days per investigation.



Region 1	Lubbock	Region 2	Abilene	Region 3	Arlington
Region 4	Tyler	Region 5	Beaumont	Region 6	Houston
Region 7	Austin	Region 8	San Antonio	Region 9	Midland
Region 10	El Paso	Region 11	Edinburg		







Policy: Process, policy, and law are not aligned to clearly defined outcomes that protect individuals while recognizing self-determination.

- Policy favors an individual's ability to refuse services and does not provide appropriate or adequate guidance for intervention to prevent abuse, neglect, or exploitation. APS literature states: "APS philosophy, in most cases, is heavily weighted to client's liberty over safety. The fifth APS casework principle…asserts that freedom to choose is more important than safety. An important principle of APS casework is that adults who have the capacity to make informed life decisions have the right to refuse protective services, even if they are in a state of abuse, neglect, or exploitation."
- Guidance on decision-making does not adequately address abuse, neglect, or exploitation issues.
- Policy does not provide flexibility to meet community standards reflecting balance between self-determination and protection from abuse, neglect, and exploitation.
- Policy, handbook, and practice are not aligned.
- Policy not maintained at a manageable level.

Capacity Tools: The determination of capacity impacts almost every facet of APS casework. With the capacity to choose, a person has the right of self-determination. It is therefore critical to the success of APS to correctly determine if an individual possesses this capacity. The current

capacity tool is ineffective and statistically weak.

- Current tool focuses solely on mental and functional capacity, without regard to any environmental issues or concerns.
- Tools provided to assess and/or diagnose abuse, neglect, and exploitation are underutilized.

Guardianship Program: Lack of clarity in law results in inconsistent interpretation of the role and responsibility of APS.

- Emphasis on self-determination results in fewer court intervention requests to judges.
- Guardianship policy results in conflicts with the judicial system.
- Conflicts exist between guardianship and investigations residing within the same agency.
- Community resources are underutilized.

Technology: Opportunities exist to utilize technology more effectively.

- Technology has not been fully developed or deployed to support and enhance the investigative process, data collection, or training for field staff.
- The current case management system (IMPACT) is reportedly dropping cases and the associated supporting documentation.
- Telemedicine intervention techniques could be better utilized.
- Digital camera usage is sporadic, due in part to memory deficiencies.

Records: Compliance with documentation requirements is poor.

- Records retention practices are not consistent with or supportive of the investigative and/or judicial processes.
- Case documentation is generally incomplete and frequently insufficient for the county attorney to pursue necessary action.

Human Resources: Staff turnover in El Paso is twice the statewide average.

- Classification/pay levels of APS specialists and guardianship staff may not appropriately reflect duties and responsibilities.
- Inadequate training and supervision may contribute to staff turnover.
- The high turnover rate adversely affects the quality of investigations and services.

Training: Staff training is inadequate and inconsistently applied.

- There are no specified outcomes measures for staff training.
- There is no formal linkage between formal classroom training and prior or subsequent on-the-job training.

- Training does not ensure that staff are qualified to make appropriate assessments, particularly in specialized areas such as financial exploitation or self-neglect.
- Training does not ensure staff understand the process of a mental health commitment under the Texas Health and Safety Code.
- Staff are not trained in how to appropriately engage the community, such as local mental health community providers, to assist.
- There is no annual continuing education required of APS investigators or supervisors.
- Training is not readily accessible to staff in the field.
- Staff are often placed in the field without training.

Procedures: Inconsistent application of procedures increases the risk of poor outcomes.

- Compliance with documentation requirements is inadequate.
- Investigators are not consistently addressing all allegations of abuse, neglect or exploitation.
- The current capacity tool is not always applied, not applied consistently, and inadequate to address areas of concern related to the individual's ability to effectively deal with abuse, neglect, and exploitation.
- Staff do not consistently provide independent verification of facts presented by individuals under investigation.

Community Resources: The lack of systemic partnerships with local offices and community stakeholders hampers effective response to individuals with documented needs.

- Underdeveloped networking of community resources renders APS ineffective in engaging support for individuals who are subject to abuse, neglect, or exploitation.
- Lack of engagement with the community limits common understanding of community standards and expectations.
- APS is unable to successfully engage other health and human services agencies, such as MHMR, in appropriate interventions.

Legal: Current policies, practice and procedures reduce the number of referrals to probate court.

- According to the 30-day report released by HHSC, a county attorney reports that APS referred 55 cases to the probate court in fiscal year 2003. As of April 14, 2004, only four cases had been referred in fiscal year 2004.
- The probate court indicates concern with the disclosure of information by APS in response to requests by the court.
- Staff are inadequately trained on court proceedings with the result that county attorney preparation for court hearings are adversely affected.

- Poor quality of APS investigations, poor documentation of cases, and understaffing has impaired the relationship with local prosecutors and judges.

The 90 Day Implementation Plan: Further Findings

The 90 Day Implementation Plan identified elaborated on the findings of the 30 Day Report. HHSC identified the following actions related to APS policy and processes:

- *Intake*. The investigation revealed that improvements could be made to the intake system, including the roll-out of the public reporting website and the review of closed cases to improve future intake procedures.

- *Investigation*. The investigation revealed that problems existed in prioritizing and assigning cases; conducting proper investigations of cases; producing of a record with sufficient facts and documentation to support possible subsequent legal actions; and providing uniform procedures and standards for in-home investigations done by APS caseworkers.

- *Risk Assessment*. APS policy requires caseworkers to provide for the protection of the elderly and individuals with disabilities, as well as give a competent client the option to refuse the investigation or services. The capacity assessment tools and procedures used by APS to determine capacity are limited and lacking in reliability. The current system does not take into account the complexities of cases in which appropriate balance between self-determination and protection must be found.

- *Service Delivery*. APS is supposed to both conduct investigations of abuse, neglect, and exploitation and provide protective services to minimize further risk, if warranted. These services may include case management, arranging for psychiatric evaluations, home care, adult day care, social services, and health care. Unlike guardianship services, a client receiving protective services retains legal control over his/her situation. The HHSC investigation revealed that a lack of distinction between the investigative stage and the service delivery stage complicates caseworker activities. Additionally, the funding of service delivery appears to take priority over investigations, contributing to a lack of support for investigative work by APS. HHSC also found that clear standards do not exist to identify client resources for service delivery across all APS regions. Finally, HHSC found that a lack of clear cooperative agreements between APS and other agencies contributes to a poor coordination or resources and referrals of clients to proper agencies and services.

- *Guardianship*. Guardianship is pursued when a client is deemed at continued risk of abuse, neglect, and/or exploitation; the client has been shown to lack capacity; and a less-restrictive alternative is not available. APS staff is supposed to ensure that a case record provides the information a judge will need to make this determination, including the identification of an appropriate guardian for the client. HHSC identified the following guardianship issues within APS:

    - Inadequate capacity determination tools prevent many who need guardianship from getting it;

- A lack of contractors providing guardianship services complicates providing guardians to all who need them; and,

- A conflict of interest exists because guardianship services are provided by the same agency that provides services and conducts investigations.

HHSC identified the following actions related to APS organization and administration:

- *Staffing*. HHSC has determined that staffing shortages are contributing to inadequate case management in some regions of the state. Staff are not thoroughly trained, especially with regard to complex investigative work that requires specialized skills. The use of supervisors to assist caseworkers in dealing with difficult cases is not uniform in the field. Finally, turnover rates are excessive in some areas of the state, leading to further stress on the human resources component of the APS system.

- *Funding*. The allocation of funding to each APS region depends upon the use of the equity of service statement (ESS). The current method of calculating funding does not appear to take into account all relevant factors to determine current and future needs, and needs to be redesigned in order to fund each region equitably.

- *Performance Management*. Almost all programs within APS lack adequate measurement mechanisms by which success can be gauged. Caseworkers lack clear performance standards, clear procedures, and timely performance reviews. Performance measurements seem to vary by supervisor, making consistent program performance measurement difficult. Additionally, the agency lacks a clear channel by which program problems can move through the chain of command and reach the attention of upper management before exploding into high profile cases that typically require specific interventions that are not applicable to fundamental, systemic problems.

- *Technology*. The Information Management Protecting Adults and Children in Texas (IMPACT) system is used for APS case reporting and tracking. HHSC identified problems with the system, including improper data entry resulting in the appearance of "dropped" cases; improper record retention practices; and improper use of case coding and record keeping functions in the IMPACT system.

- *Mobile Technology*. HHSC has identified a need for improved and increased use of mobile technology to increase caseworker access to resources, improved recordkeeping in IMPACT, and better decision support services to assist caseworkers in the field.

- *Records Retention*. The proper maintenance of records created during APS casework is vital for case management, investigation, legal interventions, and the justification of decisions made on behalf of a client. APS caseworkers are not regularly trained on recordkeeping practices, and the agency does not abide by current state practices for recordkeeping. Additionally, understaffed regions experience more problems with keeping records properly, reflecting the inability of caseworkers' to handle their workload.

- *Training*. HHSC found that caseworker training is insufficient. Unclear policies and procedures lay a poor foundation for new workers, while high caseloads and understaffing encourages a brief training period that cannot cover all aspects of case work. APS lacks mandatory certification procedures; it does not use testing and

evaluating to gauge training efficacy; and APS does not educate caseworkers on effective interaction with community partners. Additionally, APS has not taken advantage of technologies to make training and resources more readily available to caseworkers, such as computer-based training.

HHSC identified the following actions related to APS working with community partners:

- *Community Relations*. Community relationships are vital and essential to the work of APS. The variability of quality in APS work throughout the state is, in part, due to variations in the quality of community networks in different communities. Unfortunately, staff lack training and guidelines on initiating, maintaining, and utilizing community partners. Regions employ and nurture community partnerships to greater or lesser degrees, including the use of volunteers. APS as an agency suffers from unclear and uncoordinated agreements to work with other state agencies. Additionally, the agency does not fully utilize community resources for direct service provision to clients.

- *Judicial Relations*. Current APS policies and procedures do not fully utilize the judicial system's resources to assist at-risk clients. Inadequate training, high caseloads, and a perceived bias against the use of judicial resources are thought to drive cases away from courts when judicial intervention is warranted. Additionally, the poor quality of recordkeeping and investigations impairs the use of judicial solutions.

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V. The Inspector General's Investigation and Report

Governor Perry's Executive Order RP 33 prompted HHSC to use its newly created Office of the Inspector General (OIG) to systematically investigate APS. In addition to participating in the investigation of Region 10 (El Paso) as summarized above, the OIG conducted a statewide investigation, analyzing the following aspects of the APS system:

1. Management Structure – A partial review of the management structure and how it relates to the problems within APS was conducted.

2. APS Policy – A limited review of policy was conducted.

3. Human Resources – Personnel records were reviewed in regards to accountability of APS personnel.

4. Internal APS Reports – Reviews of APS internal reports were conducted to assist in determining the root causes of the problems within APS.

5. Data Analysis – Review of APS data was conducted to help identify additional problems.

6. Case Reviews - A stratified random sample of cases were reviewed to determine if APS conducted investigations and provided services in compliance with APS policy.

7. Field Investigation - Field investigations were conducted to verify that the information in the client case notes accurately reflect the work performed by APS.

8. Community Questionnaire - Interviews were conducted with community members that work with or have contact with APS.
9. Personnel Interviews - APS personnel were interviewed to assist in identifying problem areas.

Members of the House are urged to consult the OIG's full report on APS for a detailed discussion of the methodology used in the investigation.

The Inspector General's Findings

The findings of the investigation were reported by Inspector General Brian Flood in his testimony before the Committee on Human Services. The full OIG report is a distinct document produced after the APS 30 and 90 Day Reports, and therefore contains additional information not contained in either of those documents. A summary of the Inspector General's findings appears below. The full report contains significantly more detailed findings, however, and should be used as a resource for members of the House in their consideration of future legislative action to reform APS.

Primary Issues Identified

- *Mission*. Due to having two disparate twin goals in the APS In-Home Program neither appear to be adequately addressed. The twin goals of providing protective services and investigating allegations of abuse, neglect, and exploitation require a different focus and skill set. When the two are combined, as in APS, both suffer. The majority of the complaints received by APS do not necessarily require the skill sets of an investigator. It would appear to make better use of personnel to have the initial caseworker focus on the social work aspect of the case and request the assistance of an investigator only when necessary. As it is at the moment, virtually no cases are adequately investigated to the point that criminal prosecution of a perpetrator is possible. The social work aspect of the case also suffers when the caseworker is trying to investigate instead of provide services. Investigators could also be brought in to assist in preparing a case for an emergency removal or other civil processes.

- *Accountability*. The primary problem in APS is that there is no accountability. Caseworkers are not necessarily evaluated on a regular basis and are given little feedback on job performance in regards to casework. Cases generally are not reviewed by management so a worker can close a case without fear of consequences no matter how poor of a job they may have done. If a complaint comes in about a case, management generally hides behind the shield of confidentiality or explains that the client had capacity and refused assistance. Employee and management standards need to be implemented and followed.

- *Management*. The management structure prior to September 1, 2003 was basically dysfunctional. Each of the Regional Directors had almost absolute power in their region and did not comply with state policy unless they desired to do so. Each Regional Director was over all programs in their region, APS, CPS, etc. September 1, 2003, the agency was reorganized along functional lines. This is the first time APS policy makers had any direct control over the regions. APS State Office management started implementing programs to try and bring regions into compliance with state policy. However, the vestiges of the prior management structure still hinder enforcing

compliance with state policy. Additionally, management is heavily biased toward the doctrine of self-determination and places a negative connotation on the use of the civil process provided for in statute even when its use is appropriate. The negative connotation does appear to be changing since the initiation of this investigation. The present management structure along functional lines appears to be the most likely to bring policy compliance to the agency. Management and their subordinates need to be held accountable for compliance with state policy.

- *Training*. Caseworkers are not adequately trained. Prior to initiation of this investigation a caseworker might go to work and receive a caseload before receiving any training. The first training consisted of one week of basic instruction. The second week of training on the legal aspects of the job might not be provided until the end of the first year. A caseworker could be handling complex social, ethical, and legal situations with virtually no training. The training is heavily biased toward the client's right to self-determination with little training in how to use the tools provided by statute, such as emergency removal. The training in the use of the civil processes is little more than an introduction of the concepts. Initial training needs to be more comprehensive. Extensive ongoing continuing education is needed. Presently there are no continuing education requirements. The extensive knowledge necessary to perform the various job functions suggests that specialization would be beneficial (i.e. investigators, service specialists).

- *Statutes*. The statutes strike a balance between self-determination and intervention by APS. This balance needs to be maintained to protect the civil rights of the elderly. However, the statute requires that during working hours an physician or Psychiatrist find that an individual lacks capacity before the agency can act. It is virtually impossible to find either that is willing to make a house call to make this determination. The worker is forced to act after five or on the weekend when this part of the statute does not apply. If the statute allowed for the capacity finding to be from a licensed psychologist it would resolve the problem. Psychologists can be maintained on contract with the state and will make house calls for a fraction of what an physician or psychiatrist charges.

- *Criminal Conduct*. There is no consistency within APS as to when allegations of criminal conduct are reported to law enforcement. Statute requires that caseworkers report allegations of criminal conduct that are validated. Policy requires that caseworkers report to law enforcement allegations of criminal conduct that is validated by the preponderance of the evidence. Caseworkers **may** report suspected felony offenses. Caseworkers are confused by the policy and statute regarding when to report criminal allegations. Criminal allegations regularly go unreported to law enforcement. Many believe they have to validate who committed the offense before they can file a report with law enforcement. This results in caseworkers aimlessly engaging in criminal investigations they are not trained or equipped to investigate. Further it negates the possibility of a successful criminal investigation by law enforcement.

- *Policy*. The OIG determined that APS policy appears adequate to address the situations that APS faces. Policy could be refined. Application of policy within APS is inconsistent.[6]

- *Workload*. The work/case load varies greatly from region to region. The various regions' performance in the case reviews does not appear to directly correlate to the work/case

load. Due to the extensive problems with the way cases are worked and accounted for it is virtually impossible to know what the true workload would be if personnel were properly trained and cases appropriately accounted for.

- *Capacity Test*. Workers were misusing the capacity test as a way to close difficult cases, leaving the elderly in questionable situations. The use of the capacity test was discontinued during the course of our investigation.

- *Quality Assurance Program*. APS initiated a new Quality Assurance program in September 2003. The purpose of this new Quality Assurance program was to make the present (poor) performance level of APS appear to be an acceptable baseline from which to measure APS performance. APS personnel indicated that use of the prior Quality Assurance tool was discontinued because it always reflected "so badly" on the regions. The new Quality Assurance tool was put in place so that regions could have more easily obtainable goals. The Quality Assurance program needs to establish a minimum acceptable level of performance with outcome based measures that are meaningful. Corrective action plans need to be developed off of the findings and monitored. Failure to improve to a reasonable performance level needs to result in disciplinary action.

- *Personnel*. Hiring and retaining professional personnel with increased appropriate salary levels should be a priority.

Trends Revealed in Statewide Case Reviews

As part of the OIG APS investigation, a statistical sampling was used to complete a statewide review of cases within the APS system, with the exception of Region 10 (El Paso), where all cases were pulled and reviewed. Case reviews yielded the following observations:

- The caseworkers noted that each one of them had only seen one or two cases worked all the way through correctly although they had each reviewed many cases.
- Investigations are not thorough.
- Caseworkers do not appear to understand capacity.
- Capacity test is used as a means to close difficult cases that should be worked further.
- When the capacity test is administered it is not documented appropriately. The caseworkers do not document the responses sufficiently for analysis of the responses.
- No collaterals are interviewed; the caseworker takes the word of the client.
- Caseworkers do not work at providing services to the clients.
- Supervisors do not approve closures where supervisor approval is required.
- Caseworkers misuse duplicate referral closures.
    - Referrals are closed as a duplicate when they are not duplicates and should be worked.
    - New referrals are closed into a prior closed case when they should be worked.
- Caseworkers work duplicate cases concurrently skewing the caseload picture.
- Almost all cases are closed prematurely. The cases keep coming back because they are closed prematurely until they end up with a caseworker who works the case all the way through.
- Emergency Clients Service (ECS) funds are not used when they should be.
- Questionable ECS expenditures were observed without appropriate approval.

- There is a lack of training for both caseworkers and supervisory staff.
- Supervisors signed off on closures submitted to them for closure approval when they should have been returned to the caseworker for additional work.
- There is no policy on clients that keep coming back again and again. One individual had 31 prior cases.
- Intake is not rolling referrals into existing open cases when they should be rolled in as Information Only Referrals.
- Intake needs to screen the calls better. Some items are referred forward that should not be sent to the caseworker.
- Merging cases creates a problem in tracking and reading the case.
- The wrong closure codes are often used.
- Poor assessments are routine.
- Caseworkers require more supervisor involvement.
- Supervisors are causing additional duplication of work in the case tracking system IMPACT.
- Exploitation, abuse, and sexual assault cases are supposed to be referred to law enforcement when they are validated. There is no consistency as to when the referrals to law enforcement are actually being made.

APS Policy and Its Effect on Case Management

The OIG report concluded that APS policy appears to comply with statute. However, the report also concluded that APS practices do not fully utilize all the tools provided by statute and policy, particularly:

- Emergency Removal (can be utilized to temporarily remove an individual from a dangerous situation if they lack capacity);

- Guardianship (can be utilized to permanently take charge of an individuals affairs when they are no longer competent to manage them);

- Forcible Entry (Can be used to obtain a court order to enter a house to determine the actual circumstances);

- Access to records (can be obtained with a court order to determine if a person is being exploited or needs assistance with their financial affairs);

- Protective Order (can be obtained by APS to protect an individual).

The OIG report determined that APS policy and culture place an extremely heavy emphasis on civil rights and self-determination, to the exclusion of intervention in cases where it may be the most appropriate option. Quotes from APS literature buttress this contention:

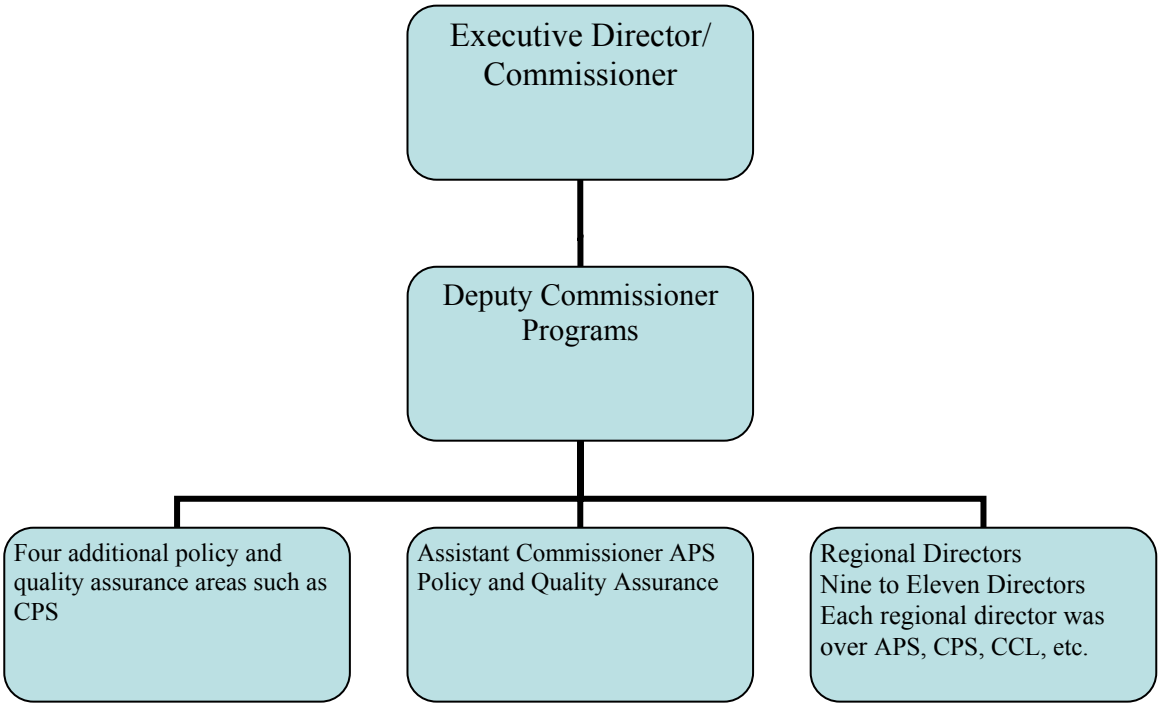
"APS philosophy, in most cases, is heavily weighted to client's liberty over safety. The fifth APS casework principle ….. asserts that freedom to choose is more important than safety."

"An important principle of APS casework is that adults who have the capacity to make informed life decisions have the right to refuse protective services, even if they are in a state of abuse, neglect, or exploitation."

Furthermore, the report suggested that this emphasis on self-determination and an agency-imposed bias against judicial intervention forced an unnecessarily rapid closure of cases due to internal pressures placed upon caseworkers through training and supervision.

APS Structure and Organization

According to the OIG report, many of the problems of APS relate to the dysfunctional management structure used prior to September 2003. The structure placed virtually all power in the hands of Regional Directors with virtually no accountability to the State Office. The impact of this structure still affects the ability of APS to function today. Following is an abbreviated organizational chart with a brief description of how the structure worked; its shortcomings; and its present effect on APS.



The Quality Assurance section furnished Program Review reports to the Commissioner and Deputy Commissioner. The Deputy Commissioner had the Quality Assurance section provide the Program Review Reports and Quality Assurance results directly to the Regional Directors who could act on, or disregard the reports, as they deemed appropriate. No evidence was found that any type of corrective action plan was required or that the findings were required to be addressed by Regional Directors. A Program Review report was only conducted for a region once every other year. The Regional Directors controlled all of the Programs such as APS and CPS at the regional level. Issues with policy or quality assurance were only elevated to the Deputy Commissioner if there was a major problem. This management structure stayed in place until September 1, 2003.

In the summer of 2003 a major reorganization of HHSC required all APS staff to reapply for their jobs. The agency was reorganized along functional lines. The overall structure remained similar, but now the Regional Manager is only responsible for APS and reports to the Assistant Commissioner of the APS Program. However, many of the Regional Directors were hired back

as APS Regional Managers. The OIG report indicates that many Regional Managers tend to bypass the Assistant Commissioner of their Program and go directly to the Deputy Commissioner.
In January 2004, the Deputy Commissioner was moved out of the direct line of authority over the Assistant Commissioner due to a new HHSC management structure. The OIG report indicates that the Assistant Commissioner is still sometimes "left out of the loop." This lack of accountability by the Regions is just now beginning to be addressed. For the first time ever, corrective action plans are being required of the regions based on APS quality assurance findings. Requests for corrective action plans went out for the first time to Regional Managers on May 28th, 2004 subsequent to the initiation of the investigation requested by the Governor. However, the requests for corrective action plans did not address the majority of the issues identified in the OIG report.

Caseworker Issues

According to the OIG investigation, APS caseworkers suffer from:

- Inadequate training;
- High caseloads;
- Lack of adequate supervisory support;
- Inadequate resources/tools (e.g. technology assistance, mobile phone allowances, etc.);
- Infrequent evaluations;
- Unclear policies and procedures;
- The effects of high turnover on workload and morale;
- Public scrutiny and poor public opinions;
- Fear of reprisals for reporting agency missteps;
- Low salaries and few retention incentives;

Additionally, the OIG report concluded that the current blending of the two distinct functions of investigative and social work functions in one case worker hinders the effective delivery of either service to clients, and impairs a caseworker's ability to function efficiently.

According to the report, most cases do not require investigative work; they usually involve the coordination and provision of services to clients. Of the cases that do require investigation, many are sufficiently complicated to require the expertise of specially trained investigative personnel. APS caseworkers are not currently trained to carry out investigations into abuse or exploitation cases, and their lack of training compromises the integrity of any investigations they conduct, as well as potentially places clients at further risk.

The OIG report recommends that the APS caseworkers be left to focus on service coordination and provision and case management, while additional staff are recruited and trained for investigative functions. Several models have been proposed to support this recommendation, and they are discussed in greater detail within the OIG report.

Stakeholder Perceptions of APS

During the OIG investigation of APS, community stakeholders were interviewed and surveyed to determine what problems they were experiencing in their interactions with the agency. The following issues emerged:

- *Reporting Mechanisms*. The current 1-800 reporting line received criticism for long wait times; an inability to circumvent centralized intake and reach local personnel; and poor treatment by and lack of knowledge on the part of personnel answering calls.

- *Poor Communication*. Respondents indicated that APS often fails to return calls; inform clients of all available services; and keep communities informed of APS presence in the community. Additionally, information sharing between APS and entities such as hospitals and nursing homes was inadequate or lacking altogether.

- *Caseworker Caseloads and Training*. Responses to questionnaires indicated that community stakeholders found that caseworkers were hurried and pressured due to their caseloads. Some caseworkers appeared poorly prepared in terms of training and access to resources.

- *Unclear Procedures, Policies, and Priorities*. Management and resolution of cases appears to be hampered by inadequate, contradictory, unclear, or absent procedures and policies. Community stakeholders do not understand how APS sets its priorities when investigating reports of abuse or neglect.

- *Inadequate or Non-existent Investigations*. Respondents indicated doubts that investigations were being conducted adequately. In some cases, they believed that APS was simply not investigating cases because the original problems that prompted reporting continued.

- *Premature Case Closures*. Responses to surveys revealed that community stakeholders believe APS prematurely closes cases without proper resolutions.

VI. Testimony Before the Committee

Apart from issues uncovered in the HHSC's 30 and 90 Day Reports and the OIG investigation and report, testimony by stakeholders before the Committee revealed other issues related to APS and adults in community care throughout the state. These issues are addressed below.

Problems with Centralization

Materials submitted to the committee raised the issue of the effect of centralization on APS functions. Specifically, the intake system and the case management system were singled out as areas that may be ill-served by a centralized approach.

Currently, APS uses a state-wide, centralized intake system that has been criticized by users who report long waits; disinterested, ill-informed, and poorly prepared operators; lack of adequate response from APS; frustration over a lack of understanding of the way in which cases are assigned priority status; and an inability to reach local APS authorities for more immediate assistance.

Issues in Facilities for Long-Term Care

Unregulated Facilities

In his testimony before the Committee, John Willis, State Long-Term Care Ombudsman for the

Texas Department on Aging, discussed APS' interaction with unregulated facilities in the state. There are more than 3,500 unregulated facilities in operation, with many providing services to three or fewer residents. These smaller facilities are overseen by APS to guard residents against abuse, neglect, or exploitation. According to Mr. Willis, "Residents in these small unregulated facilities are among the most vulnerable populations in the state."

Mr. Willis explained that the prevention of abuse, neglect, and exploitation in these small facilities is a great challenge for APS, as well as the Ombudsman Program, the Long-Term Care Regulatory, and agencies at the community level. In his opinion, improved coordination and communication between all relevant agencies and organizations was a key step in improving the oversight of such facilities. His testimony referred to a model developed for Bexar County in which APS, the Ombudsman Program, DHS Long-Term Care Regulatory, the Bexar County Attorney and City Offices share common data about unlicensed facilities and respond to complaints and concerns in such facilities in a timely and coordinated manner. In more than one year of operation, the model has developed a process to identify high-risk facilities and implemented procedures to quickly and efficiently respond to complaints about them. Mr. Willis believes that a similar model could be used throughout the state.

Financial Exploitation of Nursing Home Residents

Mr. Willis' also testified about APS' role in dealing with the financial exploitation of nursing home residents by persons from outside the facility. In his experience, he was aware of situations in which an outside party diverted income intended to support a nursing home resident, leading to the non-payment of fees to the facility, and a subsequent discharge of the resident.

An example of such a situation might involve a nursing home resident whose family has received the victim's Social Security check, and failed to pay the nursing home facility. Depending on the facility's policy, it will issue a discharge notice for non-payment, after which the involvement of APS becomes necessary. In Mr. Willis' experience, however, APS caseworkers did not become involved in investigating the discharge until it was already imminent and the resident's health and/or safety was jeopardized. In his opinion, heavy caseloads probably caused this establishment of caseworker priorities against quick action in such cases.

Preserving Dignity, Rights, and Freedoms while Protecting the Vulnerable

In addition to the OIG and HHSC reports discussing the effects of an overwhelming emphasis on self-determination in APS policy, additional testimony before the Committee revealed that there is corresponding concern among community stakeholders about the agency's focus on protecting clients' rights to self-determination in the absence of adequate provisions to determine capacity. Witnesses before the Committee expressed concern that a myopic focus on self-determination was driving APS away from the use of guardianships and other forms of legal protection for incapacitated adults, as well as leaving them in unsafe situations without proper capacity testing.

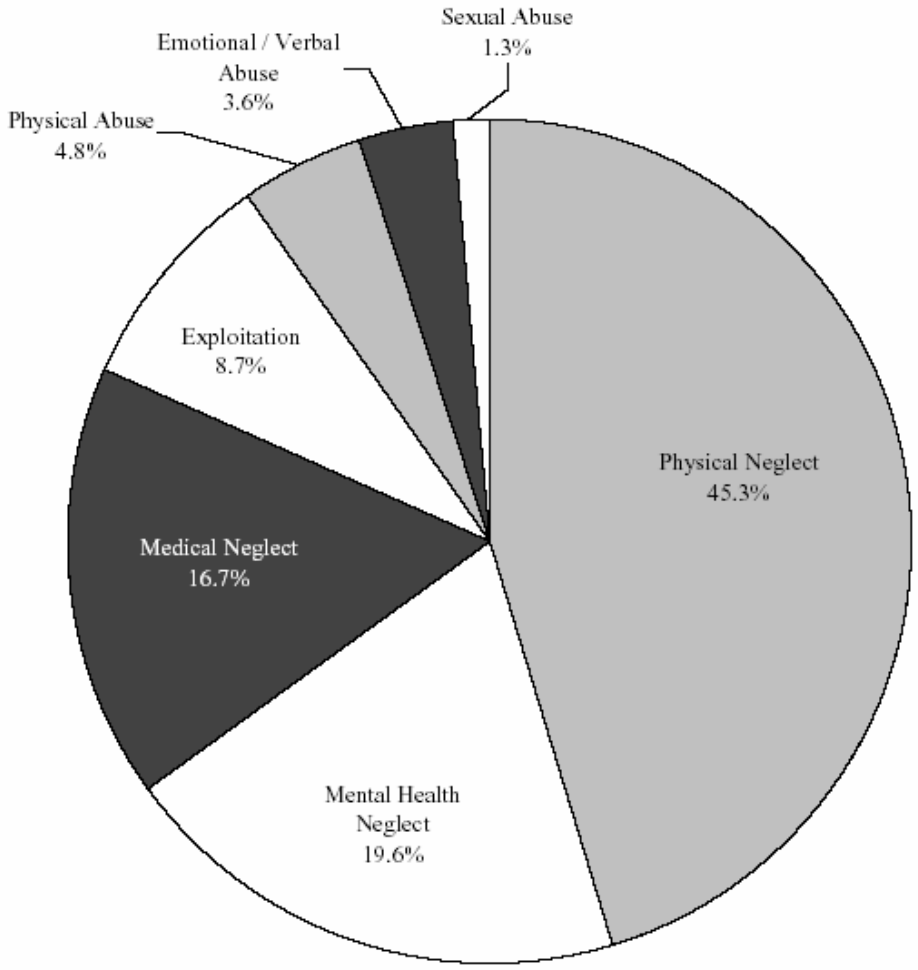
Issues Involving Guardianship

Guardianship is a necessary provision for many elderly and disabled individuals in Texas. Faced with an inability to make sound decisions in their own lives, incompetent adult individuals may require a court-appointed legal guardian to provide assistance in making decisions that

many people take for granted. Individuals assisted by such guardians may be given some freedoms, but many aspects of their lives are controlled by their guardians, including housing arrangements, financial transactions, and medical care. Guardianship is not an income-dependent arrangement. Individuals who require the care of a guardian can be poor, of modest means, or affluent.

APS directly administers guardianships for some individuals in care, while private contractors administer the rest. Some guardianship advocates testified that they believe APS should not administer guardianships due to a conflict of interest that arises when APS is both an individual's investigator/service provider/case manager, as well as the legal guardian of an individual. These advocates believe that APS has an incentive to conduct investigations and manage cases in a manner that works to deny guardianships to individuals who actually do need them, because the agency does not want to assume the burden of more guardianship cases.

Types of Abuse in Cases that Received Guardianship Services as of August 31, 2003



Note: Clients may have experienced more than one type of abuse.

Demographics of APS Guardianship Clients as of August 31, 2003

Age	Cases	Percentage
18 - 33 Years	218	30.2%
34 - 49 Years	75	10.4%
50 - 64 Years	88	12.2%
65 - 81 Years	174	24.1%
82 + Years	167	23.1%
State Total	722	100.0%

Gender	Cases	Percentage
Female	447	61.9%
Male	271	37.5%
Unknown	4	0.6%
State Total	722	100.0%

Ethnicity	Cases	Percentage
Anglo	391	54.1%
African American	155	21.5%
Hispanic	115	15.9%
Native American	1	0.1%
Asian	4	0.6%
Other	56	7.8%
State Total	722	100.0%

Steven D. Fields of the Texas Guardianship Association (TGA) testified before the Committee, and stated that TGA believes that APS policy negatively focuses on the restriction of client rights as a result of guardianship, rather than focusing on the positive improvements in safety, protection, and advocacy that can be provided to an incapacitated client. Mr. Fields' testimony revealed the following:

- TGA believes that the current APS method of determining capacity for individuals in its care relies too heavily upon individual caseworker determinations and judgment calls, and not on full and complete assessments involving the use of doctors.

- TGA believes that APS policy favors allowing caseworkers to follow the wishes of clients with questionable capacity, even when those wishes result in a client remaining in potentially unsafe living conditions.

- TGA believes APS is discouraged from referring cases involving clients with questionable capacity to the courts for determination of capacity because APS does not want to be appointed the legal guardian of these clients.

- TGA believes that APS policy does not recognize money management programs as valid, less restrictive alternatives to guardianship.

Guardianships of Last Resort

In 1997, the statute providing for "guardianship of last resort" was repealed in Texas. Since that time, provisions for guardian of last resort are unclear in Texas law, leading to inconsistencies in the application of guardianship in cases where no guardian choice is apparent. The Texas Guardianship Association has requested that the Legislature work on a clarification of this necessary provision in the probate code during the 79th Session.

Alternatives to Guardianship

Testimony before the Committee revealed a need to consider alternatives to guardianship arrangements for adults who do not require such restrictive legal provisions. Bruce Bower, Chair of the Board of Alternatives to Guardianship, discussed one such legal arrangement: the use of public-private partnerships like the Texas Money Management Program.

The Texas Money Management Program programs use a network of trained paid and volunteer staff to assist disabled clients with money matters without using costly and restrictive guardianship arrangements. They provide a valuable services while maintaining as much client independence as possible, and they allow supervision of a client's situation on a regular basis. This allows other service providers to be alerted to client needs in case their situation deteriorates over time and more aggressive measures are necessary.

There are currently 11 money management programs operating under the Texas Money Management Program in Texas, but they only serve 22 of the 254 counties in the state. It currently serves mostly urban communities, but is interested in serving rural areas as well. The corporation is a non-profit 501(c)(3) organization.

Advanced planning mechanisms are an additional tool that can assist individuals in avoiding the use of more restrictive guardianships. For example, by granting power of attorney controlling healthcare decisions to an appropriate party, a competent adult can help control the future disposition of his or her affairs without reliance upon guardians to make such fundamental decisions for them.

VII. APS Reforms Identified by HHSC

The APS 30 Day Report outlined the following action items that were to be implemented immediately:

1. *Capacity Tool*: APS workers will be properly trained on the appropriate next step or referral to be made if a determination of capacity is unclear. APS investigators will be provided adequate training, tools, and understanding to accurately assess capacity. Any

capacity assessment tool put into use at APS will include a wide variety of factors, including environmental factors.

2. *Staffing and Supervision*: Several strategic personnel actions in El Paso (including hiring additional investigative staff, one additional supervisor, and a program administrator) are being taken to quickly address performance issues there. These jobs have already been posted for hiring.

3. *Community Relations*: The new El Paso program administrator will also be charged with establishing and building the community network that supports APS service delivery.

4. *Improving Casework Quality and Quantity*: Because of the critical nature of the evaluation tools to the investigative process, HHSC will act quickly to define clear investigative outcomes and identify or develop tools to measure mental and functional capacity, as well as to assess risk of abuse, neglect, and exploitation. A reengineered and useful training program built around the effective use of these tools, that measures performance and ties classroom and on-the-job training, is also a high priority.

5. *Judicial Relations*: HHSC legal staff are working with El Paso judicial officials to strengthen working relationships, including revitalizing training recently developed, but underutilized. Temporary on-site legal support staff have been assigned to the El Paso APS office as longer-term strategies are implemented. A deputization from the Office of the Attorney General to authorize DFPS attorneys to appear in court on behalf of caseworkers who are subpoenaed to testify has also been obtained. HHSC will also work quickly to ensure that performance standards support positive working relationships with judicial officials statewide.

6. *Technology*: Strategies for integrating technology into the investigative process are being actively pursued and will be implemented aggressively on an ongoing basis. An information systems audit on IMPACT will be conducted.

7. *Guardianship*: The guardianship program will be transferred from APS and significant steps taken to sharpen its mission, strengthen its effectiveness, and build community-led capacity.

8. *Training*: Training deficiencies will be addressed immediately. No APS caseworker will assume a caseload without demonstration of success in training.

Additionally, Debra Wanser was appointed as the new Assistant Commissioner of APS on August 9, 2004. She will oversee the implementation of the corrective action plan created for APS and detailed in the 90 Day Implementation Plan.

Timelines for Further APS Reforms

In the 90 Day Implementation Plan, the following reform priorities were identified:

Policy alterations:

- Balance between self-determination and the agency's mandate for the protection of individuals at risk of abuse, neglect, and exploitation;
- Distinction between investigation and service delivery;
- Boundaries of protective services and non-protective services; and
- Responsibilities of the Guardianship program.

HHSC anticipates that these policy issues can be resolved in the fall of 2004.

New procedures:

- Performance standards must be defined and adopted;
- Organizational structure must be uniformly defined;
- Mobile technology to streamline procedures must be defined;
- Current APS in-home investigations handbook must be modified;
- New and effective training curriculum and processes must be implemented; and
- Community and judicial relationships reestablished and maintained.

HHSC anticipates that these procedures will be developed by the spring of 2005.

Administrative support and structures; technology improvements:

- Staffing positions are filled;
- IMPACT is modified to align with established policies and procedures; and
- Staff is retrained on new policies and procedures and IMPACT.

HHSC forecasts that the administrative structure and supporting technology will be fully implemented by the summer of 2005.

VIII. Conclusion

The urgent need to identify and implement solutions for the APS crisis should be placed within the context of a national phenomenon: the rapid growth of populations aged 60 or older. The following statistics were derived from a report issued by the Texas Department on Aging (now the Department on Disability and Aging) entitled *Texas Demographics: Older Adults in Texas*:

- There are more than 2.7 million Texas age 60 or older.
- Older Texas are relatively young; an estimated 66 percent of the older population is younger than 75.
- Older Texans are predominately Anglo (72%), followed by Hispanics (18%), and Black (9%).
- Approximately 50 percent of the 60-plus population resides in three major areas of the state: San Antonio area, Houston-Galveston region, and the Dallas/Fort Worth metroplex.
- The proportional distribution of older adults tends to be highest in non-metropolitan regions.
- Although rural counties make up 80 percent of all Texas counties, they account for only 25 percent of the older adult population.

Predictions for the future demographics of Texas indicate:

- Texas 60-plus are projected to total 8.1 million by 2040, a 193 percent increase from 2000. By 2040, the 60-plus population is projected to comprise 23 percent of the total Texas population.
- The 60-plus population will itself grow older. In 2000, the 85-plus population totaled over 237,000; by 2040, this population is projected to reach about 831,000, a 249.4 percent increase.
- Minority populations are growing rapidly; by 2040, they will constitute almost half of all older Texans, with Hispanics comprising 31 percent.

These projections paint the portrait of a state facing dramatically increasing demands for social services targeted toward elderly and disabled adults. These demands will be placed upon a system already creaking under the weight of its current responsibilities. Simply fixing the APS system will not be a comprehensive solution to terrible incidents of abuse and neglect like those that drove the Governor and Speaker of the House to call for investigations of abuse and neglect among individuals in community care.

The Committee found it telling that testimony placed little emphasis on the need to develop preventative policies and strategies to lower APS caseloads by reducing the need for APS services in the first place. Current state laws and policies drive an agency that is focused almost entirely on addressing problems after the fact, not preventing them. Without law and policy that

provides coordinated responses to the needs of a rapidly changing population, Texas can and should expect continued, periodic breakdowns of the social services networks designed to care for our elderly and disabled adults, despite attempts to fix them.

The Committee has prepared recommendations below to address the problems brought forth by the HHSC/OIG investigations and resulting reports, as well as the testimony given in hearings. However, the scope of the problems confronting elderly and disabled adults in Texas -- as well as the solutions to address them -- is much greater than it was possible for the Committee to address within the limits of its charge. It is hoped that this report will serve as a call for the Legislature to act rapidly and decisively to prepare the state for the challenges this growing population presents to the people of Texas.

RECOMMENDATIONS

1. **The Committee recommends the establishment of a standing subcommittee on Aging and Disabled Texans under the Committee on Human Services.** The subcommittee will coordinate an aggressive, comprehensive review of issues related to aging and disabled Texans and identify priorities for legislative action to prepare Texas for an aging population.

2. **The Committee recommends that the Legislature examine the underlying causes of abuse, neglect, exploitation, and self-neglect in elderly and disabled populations and develop comprehensive legislation and policies to address the needs of elderly and disabled Texans.**

3. **The Committee recommends that the Legislature review statutes and policies controlling guardianship in Texas**. The review should focus on
    a. Consulting experts on guardianship within the state to develop improvements and innovations in guardianship services and other methods of protecting and enhancing the quality of life for individuals with reduced capacity and disabilities;
    b. Increasing the range of guardianship options available under law to adults with disabilities and reduced capacity;
    c. Transferring guardianship functions out of APS and into DADS by statute;
    d. Increasing the funding for county-based guardianship services through private, non-profit guardianship service providers throughout the state, and developing an equitable system for funding guardianship services in all 254 Texas counties;
    e. Working with established associations representing guardianship service providers to establish effective standards for quality assurance and state regulation of private guardianship service providers;
    f. Strengthening the existing network of private guardianship service providers in preparation for the transfer of additional guardianship cases to private providers in lieu of state-administered guardianships;
    g. Exploring the partial restriction of liability for guardians who undertake responsibility for individuals whose condition or incapacity poses a heightened risk to the public in order to encourage guardianship placements for such individuals;
    h. Developing a statewide guardianship funding strategy through the introduction of legislation in order to equitably fund guardianship services throughout all 254 Texas counties.

4. **The Committee recommends that the Legislature encourage the formation of innovative and efficient public-private partnerships to be used to expand the "safety net" that protects elderly and disabled Texans.**

5. **The Committee recommends that the Legislature review statutes controlling capacity determinations, and rewrite existing statutes or create new ones that will improve the ability of APS to secure reliable capacity determinations for all clients using qualified personnel.**

6. **The Committee makes the following recommendations to APS regarding capacity screening procedures:**

a. APS should formulate a new policy to affirm that the courts are the final authority in capacity determinations, not caseworkers lacking expertise in capacity assessments.
b. APS should make the development of a reliable capacity screening system a top priority. The new capacity screening system should employ consistent, understandable, and uniform standards and specially trained staff with expertise in capacity assessments.

7. **The Committee recommends a thorough review of the APS philosophy regarding self-determination in light of the development of a reliable capacity screening system.**

8. **The Committee recommends that APS to improve the quality of investigations into reports of abuse, neglect, or exploitation of the elderly or disabled in order to increase prosecution of perpetrators, create better records for judicial interventions, and lower the incidence of abuse among vulnerable populations.**

9. **The Committee recommends that APS create a specialized staff of investigative workers who will focus solely on investigations and function independently of caseworkers providing services to clients.**

10. **The Committee recommends the creation of specialized investigation units for complicated elder abuse issues such as financial and legal exploitation and identity theft.**

11. **The Committee recommends the development of a target caseload for all APS caseworkers.** The target caseload should be developed in consideration of current Texas caseloads and national "best practices" targets. The target caseload system should be phased in over a five year period.

12. **The Committee recommends the development of a comprehensive caseworker training program to improve the level of training caseworkers receive prior to assuming their duties.** As part of the training program, APS should consider:
    a. The use of a mentoring training program to pair new caseworkers with experienced workers at the early states of caseworker tenure;
    b. A graduated caseload system that increases caseloads for new caseworkers at a pre-set rate over a fixed period of time;
    c. Evaluation and testing to ensure training efficacy;
    d. The development and promotion of on-going training and caseworker certification programs;
    e. The use of specialized training for caseworkers dealing with complex issues of abuse, neglect, and exploitation;

13. **The Committee recommends that the Legislature provide funding for improved compensation and tenure incentives to attract and maintain high quality APS caseworkers.**

14. **The Committee recommends that DFPS develop plans to increase the recruitment of caseworkers with education in "helping professions," such as psychology and social work.**

15. **The Committee recommends that the DFPS work with the Texas Higher Education Coordinating Board (THECB) to develop strategies to increase the supply of graduates with degrees in the helping professions from institutions of higher learning within the state of Texas, as well as to design training and education that produces graduates with skills suited to the staffing needs of APS.**

16. **The Committee recommends that the Legislature provide for the purchase and use of adequate caseworker equipment and resources**. Such equipment should include, but not be limited to:
    a. New technology that will allow APS workers to access data, record images, and communicate with service providers in the field;
    b. Sufficiently funded mobile communications capabilities; and
    c. Protective gear for hazardous environments.

17. **The Committee recommends immediate and continued protections for caseworkers who come forward to report APS failures and deficiencies.**

18. **The Committee recommends that APS develop more accountability mechanisms to ensure that individual caseworkers meet the agency's stated mission to protect the unprotected.**

19. **The Committee recommends that the Legislature study the benefits versus the drawbacks of centralized control and administration of APS functions from Austin, including intake, community partnerships, and individual case management.** The Committee further recommends that APS monitor and adjust regional divisions of the agency to ensure the highest level of safety and service to clients, while maximizing efficiency.

20. **The Committee recommends that HHSC develop meaningful, system-wide, and transparent mechanisms to gauge the outcomes and performance of all APS programs.** These mechanisms should be designed to ensure that performance measurements are required to be transmitted throughout the APS/HHSC chain of command.

21. **The Committee recommends that HHSC develop and rigorously apply accountability standards for individual caseworkers.** While the Committee recognizes that excessive caseloads and inadequate training and support contribute to poor outcomes, there is a need to distinguish proficient caseworkers from those whose performance is deficient in order to protect clients.

22. **The Committee recommends that the Legislature require HHSC to develop adequate mechanisms to oversee unlicensed nursing homes and assisted living facilities throughout the state.**

23. **The Committee recommends that a 1-800 line established to receive CPS complaints should be also accept complaints regarding APS.**

24. **The Committee recommends that the Legislature fund the development of comprehensive, state-wide public awareness and prevention campaigns to protect the elderly and disabled at risk of abuse, neglect, or exploitation.** Such strategies should be developed with the aim of assisting at-risk citizens, as well as reducing the influx of new cases to the APS system.

25. **The Committee recommends that the Legislature strengthen penalties for the abuse, neglect, and exploitation of the elderly and abused, as well as increase efforts to investigate and prosecute such crimes.**

CHARGE TWO: Study the incident of abuse and neglect of individuals receiving services in community care settings. The committee will evaluate the effectiveness of procedures to prevent abuse and neglect, methods to streamline reporting and investigations and the adequacy of available enforcement mechanisms.

B. Child Protective Services

Background

Following the issuance of the Governor's Executive Order RP 35,[7] the subsequent investigation of Child Protective Services (CPS) by the Office of the Inspector General of the Health and Human Services Commission, and public hearings before the House Committee on Human Services, the Committee has concluded that CPS is experiencing a statewide, systemic failure that renders it unable to fulfill its mission to protect the most vulnerable among us. Texas' child protection system is in a state of crisis. With caseloads projected to rise for the foreseeable future, and more budget cuts on the horizon, there is no relief in sight for CPS. The agency is overwhelmed and understaffed,. Anything less than substantial relief for CPS will serve as a band-aid on a profusely bleeding wound. Even immediate and sweeping reforms will fail to provide quick solutions: Texas is years away from a child protection agency that can adequately care for all children who need assistance.

Texas demonstrates a high tolerance for the death of children by abuse and neglect. In fiscal year 2003, the statewide incidence of child fatalities was three children per 100,000 children in the population. Our state ranks 48th nationally on per capita spending for child protection. To reach the average spending level of the southern states in the year 2000, Texas would have had to have increased its annual spending on child protection by $477 million.[8] Based on a report by the U.S. Department of Health and Human Services, the workload for CPS investigative caseworkers is more than twice the national average.[9] Given these facts, there no room to wonder why so many children are dying from abuse and neglect in our state. Recent reports of child deaths while in CPS care combined with the rising CPS workloads in 2004 should prepare Texans for more of these tragic, largely preventable child fatalities in the future.

Many dedicated, highly competent, and impassioned advocates for children work within the ranks of CPS. These workers are unsung heroes who perform well regardless of their difficult task. Personal commitment drives these individuals to excellence. Unfortunately, there are also those in the ranks of CPS who would do better in another line of work. CPS simply cannot afford to attract and retain enough proficient caseworkers to do the volume of work for which it is responsible. Any meaningful reforms of the agency demand a substantial investment in the agency's human resources infrastructure. Until CPS has a sufficient, stable staffing profile comprised of competent, well-trained professionals, it will be unable to provide an adequate safety net for Texas children. Proposed reforms that do not tie appropriate staffing levels to reasonable caseloads are also doomed to fail.

The Committee acknowledges that simply providing additional CPS staff will not be enough. Their proper development is crucial. Competence in child protection is not achieved overnight, or in one or two years. It takes several years to achieve sufficient expertise and skill to manage many CPS cases. Inadequate and poorly trained staff contributes to unmanageable workloads, shortcuts that lead to reduced child safety, insufficient decision support, and a working

environment that cannot attract and retain a reliable supply of qualified professionals.

CPS' current problems did not develop overnight. The information and testimony the Committee received made it clear that today's crisis has been in the making for the better part of a decade. It has been further exacerbated by recent agency reorganizations and budget cuts, and the large number of recent retirements that required the hiring of new, less experienced management and supervisory personnel. The result has been a compromised quality of service that endangers children's lives and safety.

The following sections of this report discuss not only the CPS system, but also its relationship to other important aspects of child welfare and protection in Texas. A comprehensive document on this subject is beyond the scope of the Committee's charge, however this report strives to touch upon those components of the Texas system that are closely connected to CPS in order to give illustrate the full range of challenges to better child protection in our state.

I. CPS: Organization, Policies, and Procedures

CPS is a service provided by the Department of Family and Protective Services (DFPS). **The mission of DFPS is to protect the unprotected -- children, elderly, and people with disabilities -- from abuse, neglect, and exploitation.**

To "protect the unprotected", CPS is required to:

- Investigate reports of abuse and neglect;
- Provide services to children and families in their own homes;
- Contract with other agencies to provide clients with specialized services;
- Place children in foster care;
- Provide services to help youth in foster care make the transition to adulthood; and
- Place children in adoptive homes.

The agency includes a centralized, statewide intake department, investigations workers, family based safety services, conservatorship, adoption preparation, foster home development, and a legal department. In fiscal year 2003, CPS assigned 185,732 referrals alleging abuse or neglect and completed 131,130 investigations involving 278,871 children. Of these, 78,475 cases of abuse and neglect were confirmed, and 8,595 children were removed from their homes. Statewide, 840 caseworkers spend at least 80 percent of their time on abuse and neglect investigations.

The Bexar County CPS Review

One of the most recent, thorough reviews of the CPS system was prompted by the tragic homicide of Diamond Alexander Washington in Bexar County, a child who had been in the CPS system since her birth. Judge Andy Mireles called for an investigation into the child's death, and an in-depth look at the CPS system that had failed to prevent it. The review was conducted by David Reilly, Chief Juvenile Probation Officer of Bexar County, and Lynn Wilkerson, General

Counsel of the Bexar County Juvenile Probation Department. Following comparisons of their report with testimony and other data available to the Committee, it was determined that the situation at CPS in Bexar County, as described by Mr. Reilly and Ms. Wilkerson, was mirrored by the rest of the state. A summary of their findings appears below. They succinctly recapitulate this Committee's understanding of the problems besetting CPS.

An Overloaded System

- *The child protective system is overwhelmed and in a state of crisis.* From CPS through the court system, many components of the system are overwhelmed with cases, with no relief in sight. Although there have been full caseloads and full court dockets for years, there was a dramatic increase of incoming cases in 2004. Unwieldy workloads in each of the major components of the system are resulting in unnecessary and unacceptable compromises and short cuts. These complex and difficult cases require time if they are to be worked effectively. When time constraints exist to the level that they do today, there will be predictable negative outcomes for children.

- *CPS cases.* In 2002, the average number of cases being screened and assigned to investigative workers in Texas was 162 for the year – more than twice the national average of 76.[10] The number of investigations being assigned to an investigative worker in Bexar County presently ranges from 16 to 27 a month, with an average of slightly more than 19, even though summer is typically a low period.[11] Caseworkers reported as many as 25-30 assigned investigations each month earlier this year. This represents more than one new case per work day. Given the requirements inherent in each case -- to thoroughly investigate the allegations, to document, to corroborate information, establish safety plans when needed -- this is simply an impossible and unmanageable task. Case workers are unable to keep up with the influx.

CPS Culture

- *According to the Bexar County report and investigation, CPS has a reputation of being secretive, unresponsive, unwilling to share information, overly controlling, punitive, retaliatory, and not always acting in good faith.* While we would hesitate to characterize a program in such broad terms based on anecdotal information, the themes in the information provided to us were overwhelming, consistent and similar. Much information was provided by sources external and internal to CPS that reflect a culture that is characterized by withholding information, distorting information and demonstrating an overriding need to remain in control.

  The information gathered for this report suggests the emergence of a culture internal to CPS that has taken some roots and that must be forcefully addressed if the community is to become a true partner in the protection of children. This culture is reflected in the manner in which the agency seems to cloak so many things in a blanket of secrecy, finding reasons not to release information instead of ways to share information. Rather than seeing the benefits of creating an open system and generating community support and finding ways to be more forthcoming, the agency seems all too eager to cite privacy rules that prevent them from being more open.

- *CPS discourages dissent.* From inside and outside the agency, we heard many stories with a familiar theme: it is not permissible to disagree, not permissible to cast a

dissenting voice and not permissible to take an opposing position on a case. Other case-specific information suggests that a therapy provider with a different view of a case than CPS was changed in mid-stream for the stated reason that the "new worker preferred to work with another therapist" without regard to the therapeutic relationship. From inside the agency, a consistent theme voiced by workers interviewed is reluctance to speak up for fear of retaliation.

- *CPS does not systemically view decisions and events through the child's eyes or the child's perspective.* During the course of the interim, we heard numerous accounts, with common themes, from external as well as internal sources, that critical case decisions are sometimes born out of convenience, personal preference and the desire to control all aspects of a case. Examples include decisions such as changing a child's therapist, not acting timely on behalf of a child, and lacking a sense of urgency at critical points in a child's life.

  In Bexar County, CPS case decisions as to legal relief are at times developed based on prediction of what the reaction will be from the Assistant District Attorney or the court, rather than on the protective needs of the child. It is recognized that there is a balance that must be reached and that the District Attorney's office retains the prerogatives of prosecutorial discretion. There are opinions on both sides of the question as to who should be "making the decisions," and these differences are to be expected. There must be an on-going process in place involving the respective agency managers so that case decisions that warrant further review receive that review, which will also help to define parameters for legal interventions.

  In cases where justification and evidence exists to achieve involuntary termination of parental rights, if the parents agree to voluntarily relinquish their rights, the state invariably opts for the latter in the obvious interests of time, efficiencies, court time and the associated costs of each. This hampers the state's future ability to protect other children that may be subsequently born to the parent.

- *There exists a philosophical tenet that reunification must always be pursued in every case in which a child is taken into conservatorship.* The concept of "reasonable efforts" is often used as a basis for this belief in spite of the fact that neither federal nor state statutes addressing this doctrine require the state to make reasonable efforts to reunify in every case.

- *CPS lacks community support.* Of the interviews conducted with organizations in Bexar County that work with CPS, there was minimal support expressed for the CPS organization and the system in place to protect children. When community partners were asked for the positive aspects of CPS, the consistent response was there are many dedicated and committed CPS caseworkers.

- *The relationship between CPS and the Child Welfare Board needs attention.* The relationship between CPS and the Child Welfare Board has reportedly been deteriorating for a number of years. The relationship has been characterized by a lack of trust, lack of openness, and lack of adequate information sharing. There is also a tendency to needlessly refuse requests for information on the grounds that to do so would breach confidentiality restrictions. It is widely perceived that the "confidentiality" barrier is over-used and is inconsistent with the Child Welfare Board's statutory

entitlement to information per section 262.005 of the Texas Family Code.

- *CPS' relationship with the private sector needs to be enhanced and expanded.* The private sector has much to offer the CPS system even beyond what it currently provides. The private sector entities interviewed as a part of the Bexar County investigation report serious dissatisfaction with the perceived lack of interest on the part of CPS to form meaningful and constructive partnerships. Rather, they see an organization that has closed itself off to the outside, does not reach out to form community coalitions and partnerships, does not engender trust, has little credibility, does not seek solutions and zealously protects its own turf even when it cannot handle the load. It is reported that this is not a new phenomena, but one that has been evolving for years. This culture contributes to other associated inefficiencies that have far reaching consequences for front line staff, children and families.

- *CPS is perceived as being less than forthcoming about child deaths.* The Child Death Review Committee and the Child Fatality Review Team are community-based groups that review child deaths. It typically takes only one or two months for a child death as a result of abuse or neglect to be reviewed. There are some notable exceptions across the state, but most are done in the time allotted to the teams.

- *Current and any subsequent state-level investigations into CPS should not limit their focus to any one or two components of the system.* The components of the system are far too interrelated and interdependent for a limited approach to yield any far-reaching and comprehensive benefit.

Inefficient Uses of Time and Resources

- *The most valuable resource a worker has is time, to which the system seems insensitive.* The current system requires caseworkers to typically spend many hours in the courthouse waiting for their case to come up. Compounded by the fact that there are often more than one worker involved and that most supervisors also attend most hearings, there is a vast amount of valuable caseworker and supervisor time lost in the halls of the courthouse every day. Additionally, when caseworkers must place children out of town because all local resources are full, there is no formal process to coordinate visits and to provide courtesy visits to the same facilities by and for co-workers. Similarly, when there is a need for placement, the search and match process is not sufficiently centralized, resulting in many people performing the same process, contacting the same facilities for placements.

- *Administrative support is lacking.* Caseworkers reported spending a significant portion of their time – much more than in the past -- in the office doing administrative tasks. There are a number of administrative functions currently assigned to caseworkers (data entry; system searches; merging automated files; filing; criminal history checks) that could be carried out by administrative support staff, freeing up valuable time for caseworkers to perform their core duties. Positions such as these were eliminated in prior staff reductions.

Breakdowns in Service Quality

- *There is a systemically-based lack of continuity in services.* In the CPS Legal Ongoing Units, managing children in conservatorship and their families, more often than not, each case has two workers-one for the child(ren) and one for the parent(s). As a result, no one caseworker has the overall picture. Both must attend the numerous case staffings and hearings that occur in a legal case. In addition, this scenario presents the need for constant and continual communication and the sharing of information between the workers, coordinating parent-child visits, etc. The built-in transfer of cases from worker to worker, necessitated by the organizational structure of the local CPS office, leads to a great lack of continuity, the loss of knowledge, loss of insights gained, and the possible loss of trust and productive relationships. This in turn leads to breakdowns in communication, coordination, and the loss of continuity in case planning and direction. This often presents a very confusing picture even to the professionals who work with CPS, not to mention the clients.

- *New hires are assigned to Investigation Units, the units that require the most experience.* This happens because that is where the most of the vacancies occur. Tenured and experienced staff tends to migrate to other areas of the system that are felt to be less stressful and less risky. In Investigations Units, CPS has its most inexperienced, most minimally trained staff making the critical and difficult initial determinations, which impact the very direction of the case. They are most often called upon to assess risk and make further recommendations without the assistance of other community professionals.

- *Services for CPS clients are often delayed.* This is due, in part, to the new centralized system of requesting approval for services, which causes delays of several weeks, combined with cuts in funding for contracted services.

- *There is no formal process in place for a periodic evaluation of service providers that includes front-line CPS staff and other agency personnel, such as the District Attorney's office, community volunteer advocates, and attorneys ad litem.*

- *When children are reunited with their parents, there is a systemic and planned reduction of services to the family.* This should be changed. Given that the return of a child should always be considered a high-risk action, service should be increased, if there is to be any change at all. Contracted therapists reported that the reduction in the frequency of visits is planned and results from all the burdens placed on the parent at the point of re-unification.

- *Initial training for caseworkers does not adequately prepare them for the requirements of the positions.* It is recognized that they need new staff up to speed as soon as possible, but having inadequately trained workers presents problems. CPS staff feels that the training should integrate more practical, on-the-job skills and training.

- *New child-care licensing standards that went into effect in January 2004, are reportedly counter-productive in a crisis situation.* The requirement that a child 5 or under can stay in an emergency shelter no more than 15 days, can lead to a child being moved from shelter to shelter and can result in the youngest and most vulnerable of a sibling group being separated from older siblings. This scenario also contributes to caseworkers moving children long distances.

- *The dockets in the abuse and neglect court are long.* Lawyers, families and caseworkers often wait for hours for a hearing. There is insufficient court time to adequately handle the number of cases and provide the level of judicial oversight required in these matters. In addition, there is insufficient Assistant District Attorney time to adequately address the state's responsibility. This leads to decisions and courses of action that may be expedient, but compromise the state's ability to provide subsequent protection.

  There are efficiencies in place in that certain CPS legal units are assigned to certain Assistant District Attorneys. That helps concentrate the caseworkers' cases in one block of time. Still, on the days the caseworker is in court, the wait for a short hearing is often long, and precious time is wasted. Also, to some extent, the long dockets have a negative impact on the number of attorneys willing to do quality *ad litem* work. Finally, CPS supervisors have been expected to be in court on all their caseworkers' cases, even when the case is routine and the caseworker experienced. Supervisors report that 20% to 40% of their time is spent at court, most of the time waiting.

- *Extension of cases beyond 12 months contributes to system overload.* The court system and the foster care system are unnecessarily clogged due to court cases being extended beyond the legislatively-mandated 12 months. The state legislature has made it clear that resolution to cases involving children being brought into foster care must be achieved within 12 months. Section 263.401 of the Texas Family Code. A one-time extension for up to six months may be granted, but is for the exceptional case where the court finds it is in the best interest of the child to delay. Legislative intent makes it clear that the deadlines are meant to be firm. Only one extension may be granted, and the parties may not extend the deadlines set by the court by agreement or otherwise. Sections 263.401(c) and 263.402 Texas Family Code. After the child is returned to the home, the court may maintain jurisdiction for up to six months more to monitor the return. Section 263.403 Texas Family Code.

- *Supporting Agencies are overwhelmed.* The numbers of children in the legal conservatorship are hitting all time highs. Children shelters in the area are chronically full, requiring workers who are already stretched thin to drive to distant parts of the state to place children, often at night. There are scarce local resources for substance abuse treatment and mental health services. Funding cuts to other support services have pushed cases toward CPS.

- *Attorneys ad litem are not sufficiently held accountable.* There is also a group that does not consistently meet their obligations for advocacy and for visits with the child clients. It was frequently suggested to the investigators that attorneys *ad litem* be held more accountable for visiting their children. The attorneys have no formal requirement to report visits to the court. The Court does emphasize to the attorneys the requirement to visit their clients, and court staff tracks and admonishes those attorneys who do not visit.

- *There is no process for appointment of counsel for indigent parents prior to the 262 removal hearings.* This typically leaves the parents without legal representation at a critical point, and tips the balance in favor of the state.

Management Deficiencies

- *Morale is low.* Universally, staff reports that "things have never been this bad," morale is extremely low and there is little respect for the leadership.

- *Management lacks credibility with staff.* A strong theme throughout this process is the widespread opinion that the morale problems within CPS are not just related to workload but also to the general perception that some members of mid-level management are ineffective, out-of-touch, not visible, not effective, and do not promote the sense that "we are all in this together." The resulting lack of credibility contributes mightily to the morale problems that exist. Admittedly, in times of less stress from an overwhelming workload, the significance of this factor would be less damaging than it is today. This has contributed to the perception that management is attempting to minimize the significance of the problems facing the front lines for fear that it will have a negative reflection on them.

From within the ranks as well as from other entities who testified, there is a perceived lack of leadership at CPS, especially at the mid-management level but also extending into the upper management levels.

- *The CPS system is perceived by those within the ranks and by external agencies as reactive rather than pro-active.* This has extended to community relationships. There have been recent initiatives to turn this around, the continuation of which is encouraged.

- *Many first-line supervisors do not feel that they are adequately involved in problem-resolution processes.* They report that they are handed new procedures/policies that are developed without first-hand knowledge of the consequences.

- *Mid to Upper management is new.* In the recent past, many tenured and experienced CPS supervisors and managers have retired, resulting in many persons in current supervisory and management positions being new to their new roles and responsibilities.

- *At the state level, there are counter-productive measures in place that unduly restrain and prevent local operations from fully utilizing their resources.* Given the rate of turnover, there is insufficient flexibility provided locally to adjust to this circumstance. There are staff ceilings that constrain the local managers' ability to manage the situation by hiring temporary staff or overfilling classes of new hires, for example.

Inadequate Communication

- *Access to law enforcement information is needed.* There is a lack of an integrated and automated information system for all the agencies to utilize in providing and exchanging information on a daily basis. Also, the criminal history database presently available to CPS workers is not adequate; it is not as complete or as accurate as other databases available to law enforcement (TCIC and NCIC).

HHSC/OIG Investigation and Report

Following the issuance of Governor Perry's Executive Order RP 35, HHSC employed its Office of the Inspector General to investigate CPS. HHSC also issued a series of reports that incorporated the findings of these investigations. These reports detail the systemic breakdown of the agency.

The OIG examined 2,221 CPS investigation case files statewide and conducted a thorough compliance review. HHSC also studied previous CPS assessments and reviews in its initial examination of the program. The OIG found that CPS caseworkers are inundated with increasing caseloads, which results in noncompliance with policy, as well as premature closure of cases. High caseloads can result in children being left in abusive situations or repeated incidents of abuse and neglect. The review found that in more than half of the investigations where specific case action was needed, caseworkers either failed to maintain contact with the child, failed to staff the case with their supervisor for appropriate support and direction, or failed to provide all needed services to children. Caseloads for workers who investigate abuse and neglect have increased by 28 percent since September 2001. In addition, the turnover rate for new CPS caseworkers is nearly 40 percent.

HHSC has implemented new guidance on some policies and procedures to immediately increase the protection of children and prevent future abuse. However, it appears that a critical shortage of caseworkers contributes to many of the documented problems. Additional resources will be necessary for CPS to meet its responsibility to protect Texas' children. In response to the HHSC/OIG investigation, DFPS and HHSC have already taken the following actions:

- Requiring that families who are unwilling to take the steps needed to protect their child be referred to local prosecutors to determine whether legal action should be taken. Such steps may include court ordered participation in social services or removal of the child and placement in foster care.

- Requiring an independent review to close any investigation involving younger children, particularly those 3 and under, when abuse and neglect cannot be ruled out.

- Launching an effort to obtain the services of medical professionals for on-call consultation to help CPS caseworkers determine when children need immediate medical care and make other critical case decisions.

- Training CPS investigative caseworkers to use digital cameras for forensic photography by November 1, 2004. This will help caseworkers obtain quick and accurate supervisory and medical assessments.

- Accelerating the hiring of new positions authorized by the 78th Legislature.

- Developing an incentive program to attract and retain experienced investigative staff.

CPS System Components

Statewide Intake

Statewide Intake serves as the "front door to the frontline" for all Texas Department of Family and Protective Services programs. As the central point of contact for reports of abuse, neglect and exploitation of vulnerable Texans, Statewide Intake staff is available 24 hours a day, 7 days per week, 365 days per year. Currently, Statewide Intake employs 216 full time caseworkers. The turnover rate is 12.7 % and the average tenure of an employee is 5.1 years. All Statewide Intake employees have at least a Bachelor's degree and less than a quarter have a master's degree. The average salary is $30,898. There are 23 supervisory positions with a 0% turnover rate. The average tenure of these supervisors is 9.6 years. All have at least a Bachelor's degree and less than a quarter have a master's degree. The average salary is $39,297.

Statewide Intake receives many calls, e-reports and fax/mail reports monthly. The Statewide Intake website is used by professionals who must report suspicions of abuse/neglect of children or abuse/neglect/exploitation of persons 65 years or older and adults with disabilities. The Texas Family Code 261.101 requires professionals to make a report within 48 hours of first suspecting abuse, neglect or exploitation (for licensing only) of children. The Human Resources Code Chapter 48 (48.051) requires a person having a cause to believe that an elderly or disabled person is in the state of abuse, neglect, or exploitation to report the information required immediately.

Upon initial contact with statewide intake, there is an interview process that allows the worker on the phone to make analyze the information the reporter provides, and assess the situation to decide if an investigation and assignment to a caseworker is warranted.

Intake Priorities

Intake priorities are assigned as Priority 1, Priority 2, or Priority 3 (also known as an Information Referral). The following criteria are used to establish and assigning a priority to reports made through the Statewide Intake system.

Priority I:

All reports concern children who appear to face an immediate risk of abuse or neglect that could result in death or serious harm.

The following are examples of typical reports that would receive a Priority I rating:

- A child has died from the alleged abuse or neglect, and other children remain in the family or household.
- A child has sustained a serious physical injury from the alleged abuse or neglect.
- A preschool child is injured, and the family’s social or medical history is compatible with child abuse.
- A child appears to have failure-to-thrive syndrome or is severely malnourished from alleged neglect.
- A child is alleged to be sexually abused and in immediate danger of further abuse.

- A preschool child is left alone.
- A child is abandoned or totally without parental supervision, family resources, personal resources, or community support. No responsible adult is close by to offer limited supervision; and the child is in immediate danger of serious physical harm.
- A child is in immediate danger of death or serious physical harm because he lacks basic physical necessities or medical attention as a result of alleged neglect.
- A child's caretaker is behaving in a bizarre, psychotic, or extremely intoxicated or drugged manner; and abuse or neglect is alleged.
- A child is in serious distress or danger as a result of being chained, tied, confined, or left unattended.
- A child age six years or younger has sustained a serious head injury, and the alleged perpetrator maintains access to the child.

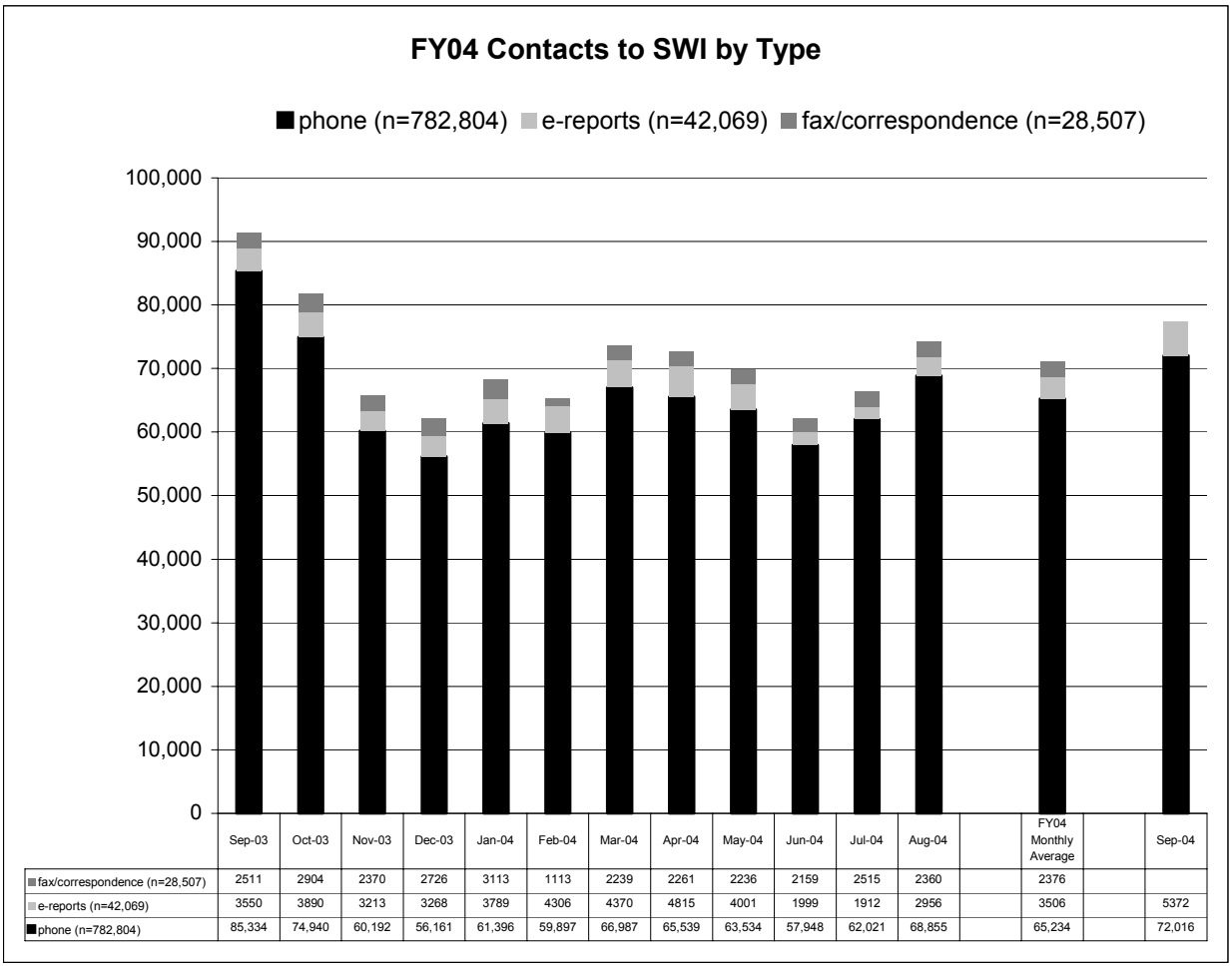
Priority II:

According to DFPS Rules (*40 TAC §700.505(b) Management Policy*), all reports of abuse or neglect that are not assigned as Priority I are assigned as Priority II.

Priority III or Priority None:
Priority III is rarely used. When Statewide Intake receives information that they believe does not warrant an investigation, the call is classified as a Priority III, an information referral is taken, but no investigation is initiated.

Cases entering the system through Statewide Intake in Austin are not always sufficiently screened. Some cases that are "assigned out" by Statewide Intake are in fact legitimate, but were not assigned the proper priority level, because intake workers failed to ask the proper questions. Additionally, although there are options to "close without assignment" based on the nature of the report, local managers use these options inconsistently. Current heightened scrutiny of CPS has made many local managers reluctant to close cases that previously would have been "closed without assignment." This reluctance further increases the burden on investigative caseworkers who already cannot handle the number of clearly high-risk cases.

Finally, bad faith reports further complicate the difficulty of properly ranking incoming calls. Some of these false reports arise out of custody battles between family members, while others are retributive calls intended to harm neighbors, etc. CPS staff report that a significant portion of their time is being spent on these false reports, and few effective measures are in place to address the problem without compromising the goal of encouraging maximum reporting of all suspected cases of abuse and neglect.



	Sep-03	Oct-03	Nov-03	Dec-03	Jan-04	Feb-04	Mar-04	Apr-04	May-04	Jun-04	Jul-04	Aug-04		FY04 Monthly Average		Sep-04
fax/correspondence (n=28,507)	2511	2904	2370	2726	3113	1113	2239	2261	2236	2159	2515	2360		2376		
e-reports (n=42,069)	3550	3890	3213	3268	3789	4306	4370	4815	4001	1999	1912	2956		3506		5372
phone (n=782,804)	85,334	74,940	60,192	56,161	61,396	59,897	66,987	65,539	63,534	57,948	62,021	68,855		65,234		72,016

Notes: Fax/Correspondence counted from logs. Sep-04 data unavailable. E-reports data from IIPS mailbox. Phone data from Rockwell ACD. Phone data includes all calls offered.

Investigations

DFPS investigators look for evidence of harm, abuse, neglect, or exploitation or the risk of these elements by the caregivers in a home or facility. A civil investigator is someone who is trained to determine if complaints alleging risk, harm, abuse, neglect, exploitation or the threat of risk, harm, abuse, neglect, or exploitation are valid. This includes monitoring for compliance with standards in residential facilities and child care. A criminal investigator is someone who is commissioned to look into the "collection of information and evidence for identifying, apprehending, and convicting suspected offenders". The purpose of any investigation is to answer the following: who, what, when, where, why and how? Investigators collect evidence through interviews, note taking, crime scene investigation, comparison interviews, and their work with medical professionals and community partners. A thorough investigation by the caseworker furthers the successful outcome of the case. During the process, investigators are expected to remain open-minded and compassionate toward caregivers and families.

Multidisciplinary and coordinated investigations and subsequent prosecutions of child abuse cases reduce trauma to child victims by reducing the number of times child victims must retell what has happened. This approach also places all required personnel and resources for the initial investigation under one roof. Authorized by Chapter 264 of the Texas Family Code, this

approach is now being used by Children's Advocacy Centers (CACs) serving 138 counties, reaching 90 percent of the state's population of children.

At times the procedures required by CPS seem to conflict with these coordinated investigative efforts, undermining the efforts of CACs. For example, some local CPS units feel they cannot respond to or initiate an investigation in collaboration with law enforcement until they have received the formal, official intake from the Statewide Intake. This delay can seriously hinder attempts to conduct coordinated investigations and can re-victimize families who have to endure a duplicative process. While waiting for official word from Statewide Intake, valuable evidence can be lost, jeopardizing the investigation and any prosecution effort that may be warranted.

It takes a substantial amount of time to complete a thorough investigation. Time pressures due to high caseloads are compromising the integrity of the investigative process, as caseworkers cut corners to complete their work and give the minimum amount of necessary attention to each assigned case**.** The time allotted by the central CPS office to complete investigations is unrealistic given the volume of work, the lack of experience among most caseworkers, and the complexity of many cases. Currently, caseworkers have 30 days to complete the investigation, 45 days to document, and 60 days to close the case. If these time frames are not met, the worker can be put on probation. These unrealistic time frames result in investigations that are poorly conducted and poorly documented with potentially incorrect findings. There is insufficient time to research the case history, interview victims, witnesses and alleged perpetrators, locate and question sources, obtain feedback from experts, coordinate with law enforcement, assess the level of risk to the children in the home, staff the case with a supervisor, and ultimately arrive at a disposition before documenting the case for the record. Currently all cases are given the same time frames, no matter how severe they are.

Average Length of Time to Complete the Investigative Phase			
	FY 2002	**FY 2003**	**FY 2004**
1st Quarter	73.4	77.8	78.9
2nd Quarter	82.0	84.4	85.1
3rd Quarter	76.9	81.6	83.1
4th Quarter	76.2	79.4	80.8

High-risk cases being recommended for further services are back-logged within the investigation units. Although management reports the implementation of a stepped-up staffing process to have these cases reviewed on a more timely basis so that they can be moved to another unit, caseworkers who were interviewed indicated they are not aware of this process.

CPS staff workers and supervisors use a risk assessment tool to guide their decision-making processes and to assess the level of risk of future abuse or neglect of a child. The seven areas of concern addressed in the risk assessment are:

- Child vulnerability
- Caregiver capacity
- Quality of care
- Maltreatment
- Home environment
- Social environment
- Response to intervention

Under each of these areas there are specific questions that staff must answer to help determine the amount of concern in each area. At the conclusion of the investigation, the worker and supervisor make an overall conclusion about whether or not the child is at risk for abuse or neglect in the short and long term.

CPS staff is required to complete a criminal background check (CBC) on alleged perpetrators in investigations. They also may obtain a CBC on persons who live in the home but who are not alleged perpetrators. Caseworkers must document whether or not any person in the home has a criminal history. The number of arrests or convictions a person has had, coupled with the type of crime committed impacts the caseworker's determination of risk to the child's safety. The criminal history of a parent or other adult living in the home is considered when making an overall assessment of the child's safety.

The Department of Public Safety (DPS) uses the secure website to disseminate criminal history record information to those non-criminal justice entities that are identified in Chapter 411 of the Government Code as being authorized to receive it, including DFPS. The secure website displays information from an offender's Identification (Identity) Record, Alias Record, and Arrest Record and whether the offender is a sex offender. If so, the record indicates the offender is a sex offender as well as provides a link to the full Sex Offender record.

The secure website also provides information about a specific arrest for an offender and provides links to details related to the arrest, including charges, prosecutions, court records, and custody information. Statewide Intake (SWI) has selected 12 specialists and one supervisor to perform this expedited background check function. CPS caseworkers in the field may call SWI to obtain checks twenty-four hours, seven days a week.

During an investigation, CPS caseworkers (with supervisory approval) may ask custodial parents to place their children out of the home voluntarily (and often temporarily) until it can be determined who was responsible for the abuse or neglect. Under this circumstance, DFPS does not have conservatorship and is not making the placement. However, DFPS may seek to remove the child from the parents' custody if the proposed out-of-home caregiver has relevant criminal background.

In an emergency placement with the relative, if the relative indicates a desire to be approved or verified as an adoptive or foster home if DFPS gains conservatorship because the child cannot safely return to his home, criminal history which prevents such a placement includes:

- A felony conviction of the following Texas Penal Code offenses:
  - §15.031 (criminal solicitation of a minor) of Title 4
  - Title 5 (offenses against the person)
  - Title 6 (offenses against the family)
  - Chapter 29 (robbery) of Title 7
  - §38.17 (failure to stop or report aggravated sexual assault of a child) of Title 8
  - §43.072 (stalking) of Title 9
  - Chapter 43 (public indecency) of Title 9
  - A felony of conviction of any substantially similar offense under federal law or the laws of another state

Under certain conditions, DFPS may go forward with the placement if CPS regional staff

determines that the person with the criminal history does not pose a risk to the health and safety of children. These conditions include:

- A felony conviction that occurred within the last 10 years, providing it did not involve one of the offenses listed under "relevant criminal history" listed above.

- A misdemeanor conviction of one of the offenses included under "relevant criminal history" listed above.

- A conviction involving deferred adjudication if the applicant has not successfully completed probation. (Note: If the prescribed probation has not been successfully completed, the crime cannot have been one of the offenses included under "relevant criminal history" listed above.)

The above is from Section 7241, Criminal History Checks, Child Protective Services Handbook, as applied to parent made voluntary placements during investigations. The policy is based on Child Care Licensing requirements in 40 TAC§725.1801.

In an emergency placement with the relative, if it is clear that there is no possibility that the relative would need to be approved or verified as an adoptive or foster home if DFPS gains conservatorship because the child cannot safely return to his home, staff should at a minimum apply the criminal history requirements of the federal Adoption and Safe Families Act (ASFA). ASFA provides a minimum set of criminal history standards that fall into the categories of a permanent ban or a 5-year ban. ASFA only considers felony convictions.

Statutory Definitions of Abuse

Allegations Investigated by CPS *(Texas Family Code Chapter 261)*

- **Physical Abuse -** physical injury that results in substantial harm to the child, or the genuine threat of substantial harm from physical injury to the child, including an injury that is at variance with the history or explanation given and excluding an accident, or reasonable discipline by a parent, guardian, or managing or possessory conservator that does not expose the child to a substantial risk of harm; failure to make a reasonable effort to prevent an action by another person that results in physical injury that results in substantial harm to the child; the current use by a person of a controlled substance … in a manner or the extent that the use results in physical … injury to a child; causing, expressly permitting or encouraging the child to use a controlled substance …

- **Sexual Abuse -** sexual conduct harmful to a child's mental, emotional, or physical welfare; failure to make a reasonable effort to prevent sexual conduct harmful to a child; compelling or encouraging the child to engage in sexual conduct …; causing, permitting, encouraging, engaging in, or allowing the photographing, filming, or depicting of the child if the person knew or should have known that the resulting photograph, film, or depiction of the child is obscene or pornographic;

- **Emotional Abuse -** mental or emotional injury to a child that results in an observable and material impairment in the child's growth, development, or psychological functioning; causing or permitting the child to be in a situation in which the child sustains a mental or emotional injury that results in an observable and material impairment in the child's

growth, development, or psychological functioning; the current use by a person of a controlled … in a manner or to the extent that the use results in … mental or emotional injury to a child;

- **Physical Neglect** - the failure to provide the child with food, clothing, or shelter necessary to sustain the life or health of the child, excluding failure caused primarily by financial inability unless relief services had been offered and refused;

- **Medical Neglect** - the failure to seek, obtain, or follow through with medical care for the child, with the failure resulting in or presenting a substantial risk of death, disfigurement, or bodily injury or with the failure resulting in an observable and material impairment to the growth, development, or function of the child;

- **Neglectful Supervision -** placing the child in or failing to remove the child from a situation that a reasonable person would realize requires judgment or actions beyond the child's level of maturity, physical condition, or mental abilities and that results in bodily injury or substantial risk of immediate harm to the child; placing a child in or failing to remove the child from a situation in which the child would be exposed to a substantial risk of sexual conduct harmful to the child;

- **Abandonment** - the leaving of a child in a situation where the child would be exposed to a substantial risk of physical or mental harm, without arranging for necessary care for the child, and a demonstration of an intent not to return by a parent, guardian, or managing or possessory conservator of the child; Refusal to Assume Parental Responsibility - the failure by the person responsible for a child's care, custody, or welfare to permit the child to return to the child's home without arranging for the necessary care for the child after the child has been absent from the home for any reason, including having been in residential placement or having run away;

Allegations Investigated by Child Care Licensing *(Texas Family Code Chapter 261.001)*

- **Abuse** - an intentional, knowing, or reckless act or omission by an employee, volunteer, or other individual working under the auspices of a facility that causes or may cause emotional harm or physical injury to, or the death of, a child served by the facility as further described by rule or policy.

- **Exploitation** - The illegal or improper use of a child or of the resources of a child for monetary or personal benefit, profit, or gain by an employee, volunteer, or other individual working under the auspices of a facility as further described by rule or policy.

- **Neglect** - A negligent act or omission by an employee, volunteer, or other individual working under the auspices of a facility, including failure to comply with an individual treatment plan, plan of care, or individualized service plan, that causes or may cause substantial emotional harm or physical injury to, or the death of, a child served by the facility as further described by rule or policy.

CPS Human Resources

Supervisors

CPS Supervisors play a crucial role in the development and success of the caseworkers they supervise, and in improving the overall working mechanism and efficiency of CPS. Supervisors are intended to be a source of advice, counseling, and assistance with appropriate case management. In order for the supervisors to do their job effectively, they must have tenure, specialized supervisor training, sufficient pay and incentive pay, resources to assist them in performing their duties, and management personnel above them to provide support and advice. Currently, CPS supervisors do not have sufficient experience. They are not adequately trained, they receive low wages, and have a high turnover rate. Many lack the necessary resources to perform their jobs.

Supervisor Qualifications

The following are the minimum qualifications for supervisors:

- Child Protective Services Supervisor I: Two years of full-time experience in Child Protective Services in Protective and Regulatory Services/Department of Human Services and completion of Phase I Child Protective Services Specialist Certification or a bachelor's degree from an accredited college or university, plus two years of full-time experience in Child Protective Services or child placement services in a public social services agency and completion of Phase I Child Protective Services Specialist Certification or currently employed as a Child Protective Services Supervisor I in Protective and Regulatory Services.

- Child Protective Services Supervisor II: Completion of Phase I Child Protective Services Specialist Certification and completion of the Child Protective Services Supervisor Certification or currently employed as a Child Protective Services Supervisor II in Protective and Regulatory Services or currently employed in a Protective and Regulatory Services management position in the Child Protective Services program at a level above Child Protective Services Supervisor and prior experience as Child Protective Services Supervisor in Protective and Regulatory Services.[12]

Acceptable Substitutions:

- Any current or former employee of the Department of Family and Protective Services who meets the current minimum qualifications (with the exception of certification requirements) and who, as of September 1, 2000, has two years experience as a Child Protective Services worker.

- Any applicant who meets the current Minimum Qualifications (with the exception of certification requirements) and who has two years experience as a Child Protective Services worker or supervisor in another state. [13]

Supervisor Certification

The Comprehensive Professional Development Plan for CPS is the master plan for CPS professional development efforts. The plan outlines a philosophy of performance support and professional development that goes beyond the traditional concept of training to emphasize the many systems within the agency that influence staff performance. The plan includes the performance guiding principles, elements, and systems within the performance support environment; components and objectives of professional development; and reviews and recommendations for new employees, tenured staff, and other special categories. This plan has been the foundation and guide for subsequent development of plans for training new workers, tenured workers, and new supervisors.

In 1994, the Comprehensive Professional Development Plan for CPS Supervisors was developed and approved. In this plan, CPS acknowledges that the development and support of supervisors can have a significant impact on the achievement of its mission. Developing and incorporating a Supervisor Certification Process further enhanced the professional development of the agencies CPS Supervisors. A statewide certification committee, made up of representatives from PRS, the schools of social work, and the Institute, spent its first year identifying supervisor competencies and validating these with field supervisors. This included a review of job descriptions and performance evaluations for CPS supervisors in Texas as well as training and certification materials from national sources and other states. Focus groups were held statewide to solicit direct input from practicing supervisors. A comprehensive list of competencies was generated and organized into five areas: Foundations of CPS Work: Common Knowledge and Skills; CPS Casework Methods and Practice; The Supervisor as Manager in Public Social Services; The Supervisor as Leader; and Development of Staff. Supervisors strongly endorsed the competencies as relevant to their jobs.

During the second year of the project, the components and requirements of the certification plan were developed. The third year was used to develop, test, and administer a written exam covering supervisory knowledge, and to develop a multimedia skills examination. The first certified supervisors received their certificates in February 1995. The certification program, requiring passing scores on both the knowledge-based and skills-based sections of the certification examination, was fully implemented by January 1997. The project continues to grow yearly. Almost 75% of all CPS supervisors in the State are certified. Each year the project develops and validates new questions for the supervisor certification exam. During FY00, the multimedia exam was replaced with a video exam. Supervisor certification consists of the following training and achievements:

- Managing Workplace Harmony
- CPS Supervisor Management Training.
- Supervisor Training.
- Supervising Individuals with Diverse Needs
- Developing Worker Competency
- Leadership: Empowering Yourself and Other

- What's Happening in This Family: Using a Family Systems Approach in CPS
- Supervisor manager certifies, via signature on the application, that applicant's performance evaluation and productivity are currently meeting expectations or are above that normally expected or required
- Documented attendance of at least 40 contact hours of training relevant to CPS supervision over a two-year period; and
- Ongoing professional requirements to maintain certification.

Supervisor tenure in CPS decreased from about 12 years to 9 years in a two year period.[14]

Average Tenure of CPS Caseworkers and Supervisors			
	FY 2002	**FY 2003**	**FY 2004**
Supervisor	11.4 years	11.9 year	9.4 years

Many supervisors are not adequately paid for their work, increasing higher turnover rates among these workers. The average salary for investigative supervisors is $3,466 per month. As the Texas economy improves, it will become more difficult to recruit and retain CPS staff. High turnover results in a lack of skill and knowledge to accurately assess child safety and engage families in services to help them care for and protect their children. It is safe to speculate that decreased tenure or experience contributes to standards of work and less effective case management. Furthermore, a lack of tenured, skilled caseworkers, CPS also lacks a sufficient pool of up-and-coming unit supervisors and program managers. [15]

Caseworkers

Recruitment, Turnover, and Compensation

Attracting and retaining proficient caseworkers is difficult if they are not properly trained, compensated, and supported by management. Above all, professionals in the field must feel that their work is contributing to child safety. Excessively high caseloads and inadequate resources and training deprive caseworkers of the comfort of knowing that they are protecting children and not harming them through inadequate care. Taken together, this combination of poor training and supervision, low compensation, few incentives, and an environment that discourages professional standards of work makes it difficult maintain adequate human resources. Hiring and retaining good employees is an expensive proposition for any enterprise. Losing them after substantial investments in training have been made is even more costly in

terms of money and the loss of expertise and organizational knowledge. CPS' extremely high turnover rate reduces the agency's financial standing, as well as its ability to fulfill its mission.

Newly hired caseworkers are, for the most part, young and inexperienced. CPS often cannot attract more experienced individuals to the job due to the low pay**,** stressful working conditions, lack of peer and mentor support, and poor training. Hiring incentives that would make CPS an attractive option for talented individuals are almost entirely absent. All new CPS caseworkers are required to hold bachelor's degrees in order to be hired, but their degrees are not restricted to the "helping professions" (e.g. social work, psychology, etc.). According to research, workers with a Bachelor of Social Work (BSW) who also had a placement or internship with CPS prior to their full-time employment with the agency had an 87 % retention rate compared to 67% for those who had social work backgrounds and no internship. The retention rate was 46 % for those with a psychology or education background, and 37 % retention for those with backgrounds outside of these areas.

Educational Level	APS Wrkrs	CPS Wrkrs
Less Than Bachelor's	5.54%	0.78%
BA Social Work	2.08%	5.24%
Bachelor's Level Degree	81.06%	76.97%
Some Graduate School	0.23%	0.41%
Masters Social Work	0.46%	1.93%
Master's Level Degree	8.08%	10.04%
Doctorate (Academic)	0.69%	0.07%
Post-Doctorate	0.23%	0.03%
Incomplete Data	1.62%	4.53%
Total	100.00%	100.00%

Although CPS employment is unattractive to many, devoted individuals still elect to pursue careers with the agency. Unfortunately, many of these new caseworkers resign shortly after completing the basic training course, because their first case assignments are far in excess of their abilities as new employees, and their training was inadequate for the task. The frustrations of this inadequate preparation for a grueling job are compounded by low pay, leading still more staff to quit. Average salary for investigative caseworkers is $2,691 per month. The average salary for investigative supervisors is $3,466 per month. When the Texas economy is healthy, it is more difficult to recruit and retain CPS staff. Furthermore, frontline CPS caseworkers reach the top of their compensation level after a maximum of four years of experience in their positions. Their only hope earning more is by being promoted to the supervisory level. Every promotion of a highly skilled caseworker, however, leaves another opening in those ranks that usually will be filled by an inexperienced individual. Low pay and high stress are forcing those skilled workers who overcame the inadequate training at CPS to leave the agency in record numbers, in order to take less stressful jobs that provide a better salary. Many turn to teaching positions instead. This turnover adversely affects the quality of casework, thwarts the agency's formation of strong relationships with community partners, and ultimately reduces child safety.

Turnover during the first two years of employment as a CPS caseworker is significant. Nearly four out of ten new worker quit. Projections for fiscal year 2004 indicate the turnover rate among beginning caseworkers (CPS Specialist II) was 38 percent. The turnover rate for CPS Specialist III workers was 17 percent; the CPS Specialist IV rate was 10 percent; and the CPS Specialist V rate was 18 percent. Investigative caseworker turnover is even higher: fiscal year 2004 projections indicate that the turnover rate for entry-level investigators (CPS Specialist II) will exceed 51 percent.

Turnover rates affect not only caseworker tenure, but that of unit supervisors:

Average Tenure of CPS Caseworkers and Supervisors			
	FY 2002	FY 2003	FY 2004
Caseworker	4.7 years	4.7 years	4.2 years
Supervisor	11.4 years	11.9 years	9.4 years

CPS Caseworker Turnover for Fiscal Year 2001	
Region	Regional Turnover
LUBBOCK	**28.5%**
ABILENE	**16.9%**
ARLINGTON	**30.9%**
TYLER	**19.3%**
BEAUMONT	**18.4%**
HOUSTON	**30.0%**
AUSTIN	**26.1%**
SAN ANTON	**34.1%**
MIDLAND	**20.2%**
EL PASO	**18.1%**
EDINBURGH	**29.5%**
Total	**27.9%**

CPS Caseworker Turnover for Fiscal Year 2002		
Region	Regional Turnover	
01	**28.1%**	-1.40%
02	**16.9%**	n/c
03	**24.7%**	-20%
04	**26.5%**	3.70%
05	**12.4%**	-32.60%
06	**28.5%**	-5%
07	**25.6%**	-2.10%
08	**26.1%**	-23.40%
09	**22.3%**	10%
10	**19.8%**	9.49%
11	**27.6%**	-6.17%
Total	**25.3%**	-10.30%

CPS Caseworker Turnover for Fiscal Year 2003	
Region	Regional Turnover
01	**23.7%**
02	**10.1%**
03	**25.6%**
04	**30.9%**
05	**16.4%**
06	**23.4%**
07	**22.6%**
08	**23.4%**
09	**16.4%**
10	**23.3%**
11	**24.3%**
Total	**23.5%**

CPS Caseworker Turnover Data by County						
	STATE	TARRANT	DALLAS	HARRIS	BEXAR	TRAVIS
1999	**24.40%**	**28.01%**	**26.58%**	**12.10%**	**19.57%**	**16.15%**
2000	**26.49%**	**25.86%**	**44.90%**	**26.93%**	**26.24%**	**25.60%**
2001	**27.86%**	**25.14%**	**35.70%**	**29.45%**	**35.77%**	**28.44%**
2002	**25.34%**	**20.53%**	**27.85%**	**30.99%**	**30.42%**	**27.09%**
2003	**23.51%**	**26.80%**	**28.50%**	**25.00%**	**23.50%**	**30.80%**
2002/2000 % change	-4.30%	-20.60%	-38%	15%	16%	5.80%
2002/2001 % change	-9%	-18.30%	-22	5.90%	-14.9%	-4.70%
2003/2002 % change	**-7.20%**	**30.00%**	**2.30%**	**-19.30%**	**-22.7%**	**13.70%**

Job Title	Job Classification	Number of Staff	Classification Salary Range (yearly)			Average DFPS Employee Salary (yearly)
APS Guardianship Specialist	B09	42	$32,988	to	$46,836	$38,674.92
APS Specialist I	B05	74	$25,932	to	$36,828	$28,560.84
APS Specialist II	B06	52	$27,540	to	$39,108	$31,968.39
APS Specialist III	B07	59	$29,232	to	$41,508	$34,126.41
APS Specialist IV	B08	204	$31,068	to	$44,112	$36,488.92
APS Supervisor I	B09	16	$32,988	to	$46,836	$38,700.79
APS Supervisor II	B10	49	$35,100	to	$53,364	$41,529.86
Best Practices Initiatvs Pr Sp	B12	1	$39,708	to	$60,360	$45,477.36
CCI Specialist I	B06	11	$27,540	to	$39,108	$31,479.87
CCI Specialist II	B07	4	$29,232	to	$41,508	$32,949.90
CCI Specialist III	B08	15	$31,068	to	$44,112	$36,885.61
CCI Supervisor I	B09	3	$32,988	to	$46,836	$37,815.16
CCI Supervisor II	B10	5	$35,100	to	$53,364	$41,625.72
CCL Specialist II	B04	40	$24,432	to	$34,704	$25,349.36
CCL Specialist III	B05	30	$25,932	to	$36,828	$28,810.79
CCL Specialist IV	B06	40	$27,540	to	$39,108	$31,622.92
CCL Specialist V	B07	92	$29,232	to	$41,508	$33,482.81
CCL Supervisor I	B08	8	$31,068	to	$44,112	$33,640.97
CCL Supervisor II	B09	12	$32,988	to	$46,836	$39,918.88
CPS Child Safety Specialist	B12	15	$39,708	to	$60,360	$47,088.96
CPS Lead Program Director	B13	3	$42,216	to	$64,176	$54,331.76
CPS Permanency Director	B12	8	$39,708	to	$60,360	$47,985.23
CPS Program Administrator	B14	15	$44,928	to	$68,304	$56,544.69
CPS Program Director	B12	81	$39,708	to	$60,360	$47,856.18
CPS Specialist II	B06	1054	$27,540	to	$39,108	$29,595.93
CPS Specialist III	B07	716	$29,232	to	$41,508	$32,632.68
CPS Specialist IV	B08	1064	$31,068	to	$44,112	$35,635.98
CPS Specialist V	B09	90	$32,988	to	$46,836	$38,437.16
CPS Supervisor I	B10	160	$35,100	to	$53,364	$38,832.99
CPS Supervisor II	B11	307	$37,332	to	$56,736	$42,739.28
Director I	B17	10	$54,264	to	$87,480	$62,681.30
Director II	B18	5	$57,816	to	$93,204	$69,382.08
Faith Based CPS Specialist II	B06	2	$27,540	to	$39,108	$30,391.74

Faith Based CPS Specialist III	B07	2	$29,232	to	$41,508	$32,164.92
Faith Based CPS Specialist IV	B08	7	$31,068	to	$44,112	$36,194.83
Family Grp Decision Making Sp	B12	1	$39,708	to	$60,360	$48,247.68
Kinship Caregiver CPS Spec II	B06	2	$27,540	to	$39,108	$28,917.00
Kinship Caregiver CPS Spec III	B07	1	$29,232	to	$41,508	$32,164.92
Kinship Caregiver CPS Spec IV	B08	7	$31,068	to	$44,112	$35,688.21
Manager II	B14	1	$44,928	to	$68,304	$56,888.52
Program Improvement Leader	B12	3	$39,708	to	$60,360	$47,260.72
Program Specialist IV	B12	13	$39,708	to	$60,360	$47,122.84
Res Treatment Placement Spec	B12	6	$39,708	to	$60,360	$43,777.06
Data from HHSC HR as of 10/12/04						

Caseloads

High turnover is also linked to the enormous caseloads of CPS caseworkers. The nationally recommended caseload is 12-15 cases per worker, according to the Child Welfare League's Standards of Excellence. While no state currently meets this standard, Texas caseworkers are extremely far from this target caseload, and caseloads are continuing to increase. The monthly caseload average in early fiscal year 2002 was 47.9 cases per investigation worker. By the close of fiscal year 2004, the average caseload had risen to 61.4 cases per investigator. Investigative workers in Bexar County reported caseloads from 35-60 and higher. A number of investigative workers had open caseloads of more than 100 cases each. High caseloads at the front of the system eventually move through to other areas and overload them as well.

Excessive caseloads force caseworkers to make increasingly difficult choices between field work (going to the homes and seeing the children, interviewing witnesses) and documentation. Caseworkers report working 50 to 60 hour weeks without being able to keep up. Overtime is rarely approved, but workers in fact routinely put in overtime without compensation in order to complete their work. Caseworkers understandably fear that their failure to put in extra time on their cases could lead to a tragedy. Nevertheless, it is not reasonable to expect that employees can continue working for an indefinite period of time at such a pace with so few rewards. The result has been a record number of resignations from CPS.

High CPS worker caseloads and high turnover directly affect safety outcomes.

- Caseloads determine the response time, service quality, and efficiency of caseworkers providing protective services to children.
- CPS workers cannot serve children adequately when they have only two to six hours per month to devote to each child on their caseload at the current caseload ratio.
- The Council on Accreditation and The Child Welfare League of America recommend a maximum range in caseloads of twelve to fifteen cases per worker. These figures are determined by in-depth time/motion analysis of caseloads to determine the time required to provide thorough, timely and high quality services.
- In Texas, the average caseload for CPS workers has increased from an adjusted weighted average of 26.7 cases in 2002 versus 25 cases in 2001, two times the recommended caseload level. Yet, CPS Investigators carry over 61 cases per worker as reported in the first quarter of 2004.
- The average 2003 turnover rate for CPS caseworkers was 23.5% and as high as 39.9% for entry-level caseworkers. Turnover for all Texas state employees in 2002 was 14.8%.
- Turnover increases the likelihood that miscommunication and mistakes will be made when a child’s case is “handed off” to a new caseworker and results in delays in permanent placement of children.
- Low caseloads increase worker accuracy in assessments during removal/placement decisions. Low caseloads allow caseworkers time to research past referrals, legal and investigative case narratives and develop the best plans for families, thereby reducing the likelihood of families re-entering the system.

High caseloads inhibit the retention of qualified caseworkers and endanger the health and safety of children in the system. No adequate solution for the staffing problems within CPS can fail to significantly reduce caseloads.

Department of Family and Protective Services (DFPS)						
FY 2004 - 2005 CPS Caseload Information Provided to the 78th Legislature						
Worker Type	**Baseline**		**Restore**		**Maintain**	
	FY 2004	**FY 2005**	**FY 2004**	**FY 2005**	**FY 2004**	**FY 2005**
Caseload per Worker: Investigation	58.4	59.7	54.5	55.8	53.2	53.2
Caseload per Worker: Family Based Safety Services	22.6	23.6	21.7	22.6	20.8	20.8
Caseload per Worker: Substitute Care	39.7	41.9	36.9	38.8	35.3	35.3
Caseload per Worker: Foster/Adoptive Development	23.8	25.0	23.5	24.7	22.3	22.3
Caseload per Worker: Generic	38.7	40.8	33.7	35.5	32.1	32.1

CPS Investigator Monthly Caseload Averages			
	FY 2002	**FY 2003**	**FY 2004**
1st Quarter	47.9	57.2	57.9
2nd Quarter	51.5	56.4	60.3
3rd Quarter	53.1	57.2	62.6
4th Quarter	52.8	56.2	61.4

Training

Hiring a sufficient number of caseworkers is only one part of providing adequate human resources for CPS; subsequent sufficient training and support is crucial. Currently, the training program for CPS caseworkers runs for six weeks and is comprised of both classroom presentation and on-the-job training within a CPS unit. Approximately 25 days are devoted to classroom presentation including two to three days of computer/automation training on the Impact program. The Committee is unaware of any training program for psychotropic medications, mental health, mental retardation, proper use and monitoring of all prescription drugs, medical training, criminal investigation training and skills, how to recognize signs of internal abuse and training on cultural diversity issues.

Caseworker training days are dedicated to each specific area of CPS casework: investigation, family-based services (where the child is left in the home while the family works on identified issues) and child removal and placement. Three days are dedicated to learning how to interview children utilizing the Step-Wise process, three days are set aside to learn risk assessment as it applies to investigations, two days are devoted to discussions concerning human development and family dynamics, and one day is spent learning about domestic violence and substance abuse issues. The on-the-job (OJT) training component consists of one to two weeks of pre-OJT to shadow and observe workers, and another week of actual OJT in which the trainees perform targeted tasks they while they accompany a caseworker. Trainees also perform a kinship study during the training period.

The current training program is not long enough and does not adequately cover the primary responsibilities of the job. It fails to fully prepare an inexperienced worker to take on typical caseloads with a reasonable degree of comfort or confidence. Previously, caseworker training was 13 weeks long. It covered all of the classroom presentation previously described, but also included extensive practice in case investigation and case management. Trainees were first given mock cases to work through, and then proceeded to work real Priority 2 cases under the close supervision of the trainers. Each step was monitored and discussed with input and feedback from fellow trainees and trainers. Trainees were given scenarios to role play in order to learn how to respond to real situations.

At the end of the 13-week training period, trainers knew the strengths and weaknesses of each trainee and could determine, with accuracy, what area of CPS they were best suited to begin working. Workers were then assigned to Investigations, Family-Based or Legal units. Once the new worker joined the unit, their caseload was held to a minimum to allow time to continue the learning process. After three months, the worker's caseload was gradually increased. This training program formerly was considered to be a model for the state. The current training program is a shadow of its former self.

Caseworkers require more specialized training for particular job functions. Sexual abuse investigations, child removals and placement, and training for rural workers (who handle all types of cases) all require much more time and coverage than CPS currently provides its caseworkers.

- The investigation of a child sexual abuse case is much more complex than for a physical abuse case. In close to 92% of the cases there is no physical evidence, so the history from the child is absolutely crucial. If the interview is not handled correctly, the case can be corrupted and the hope of prosecution is erased. As recently as the late 1990's,

caseworkers had to be separately certified in the interviewing of sexually abused children. This is no longer the case.

- In cases involving removal of a child from the home, statistics demonstrate that the increase in removals has severely stressed the system. From a training perspective, the steps necessary to conduct a removal of a child are time-intensive, complex and emotionally exhausting. It is not unusual for workers to put in 12-14 hour days preparing for and conducting a removal. Frequently there are numerous children involved, some with physical injuries, severe developmental delays, and/or mental health issues that must be addressed. Finally, the worker is responsible for preparing the legal documents and testimony needed for court in addition to the normal investigative duties associated with the case. Very simply, this process cannot be taught in 3 days, which is currently the case.

- Rural workers are often left on their own to handle all areas of CPS investigations, family-based services. and preparation for court appearances. Their responsibilities are tremendous, and their rural placement means that they are far from the support of peers and supervisors who can provide assistance. Thorough training is essential for rural caseworkers to succeed.

CPS also attempts to pair veteran caseworkers with new ones as mentors, allowing valuable institutional knowledge to be passed on. Unfortunately, there are often no veteran workers to choose as mentors because of high turnover. Even when experienced mentors are located, they frequently have no time to participate in the process due to their own high caseloads. Supervisors are also overburdened with their duties, and have little time to devote to cultivating excellence among their staff. Consequently, a new CPS worker is often left with insufficient training, no experienced staff to provide individual support, and a burgeoning caseload that exceeds their ability to handle it.

Continuing Education

Continued education for caseworkers should provide an opportunity for caseworkers to improve their knowledge, skills and abilities without a break in their employment. As the field of child protection and child welfare changes, caseworkers must stay up-to-date with complicated issues such as understanding the mechanisms of injury to children or the use of psychotropic medications on youths. Continuing education opportunities are not currently developed for caseworkers, leaving it to chance that caseworkers will obtain valuable new information as it becomes available.

Conclusion

CPS is experiencing systemic failures tied to insufficient funding; management deficiencies, an inability to attract, train, and retain qualified caseworkers and supervisors; and a crushing influx of cases that continues to grow each year. The agency's relationships with community partners, who are indispensable in CPS' work, have been neglected to the detriment of the children it serves. The problems confronting CPS are not new. However, past inattention by the Legislature to the needs of the agency and a failure to hold it accountable for its own lapses have contributed to a full-blown crisis that jeopardizes the foundations of the child protection system in our state. Without immediate measures to increase caseworkers and reduce caseloads, more children will suffer abuse, neglect, and death. The provision of more

caseworkers alone is inadequate. A complete overhaul of CPS is required, involving every aspect of the agency and all of its functions.

II. Child Abuse Prevention and Intervention Programs

Child abuse and neglect prevention involves a variety of approaches. In general, programs work either by discouraging behaviors associated with child maltreatment or promoting those that prevent it. Many prevention strategies have been adapted from those used by other disciplines, including public health, mental health, and education.[16] Evaluations of prevention programs have shown that the effectiveness of these efforts depends upon a number of variables; that careful design and implementation of programs is important; and that further innovation in this area is necessary to identify new approaches.

Most prevention strategies fall into one or more of the following categories, and they may overlap and incorporate various elements of each type:

- Primary prevention activities address the general population, and include efforts such as public service announcements, parenting classes, family support programs, and public awareness programs;

- Secondary prevention activities address high-risk populations who have risk factors associated with increased incidences of child abuse, and include efforts such as parent support programs, home visiting programs, respite care for families with children who have special needs, and family resources centers to offer referrals for services in low-income neighborhoods;

- Tertiary prevention activities focus on families where maltreatment or neglect has already occurred with the goal of preventing recurrence. Such efforts include parent mentor programs, intensive family preservation services, parent support groups, and mental health services.[17]

Limited resources motivate decision makers to select prevention strategies on the basis of demonstrated effectiveness and the highest return on the investment made. Techniques commonly used to gauge a policy's attractiveness among a range of alternatives, such as cost-benefit analysis, can be difficult to employ where child abuse prevention programs are concerned because outcomes data are not easily generalized from studies to the population as a whole. Some outcomes data are simply inconclusive at this time. Researchers are focusing more attention on demonstrating effectiveness and direct relationships between prevention spending and resulting cost savings. Nevertheless, despite a lack of conclusive evidence, most child welfare advocates agree that prevention and intervention are effective and significantly less costly than the direct and indirect costs of child abuse and neglect.

The direct costs of child abuse reflect expenditures on child welfare and on judicial, law enforcement, and social services that address the needs of abused and neglected children and their families. Indirect costs reflect the long-term effects of child abuse such as the need for an individual's future mental health care, substance abuse programs, and special education; increased teen pregnancies; greater welfare dependency; and lost productivity. Indirect costs are by nature more difficult to measure, and they vary widely depending upon the design of the measurement tools. Research has revealed the following about direct and indirect costs:

- The nation incurs costs of $94 billion each year in direct and indirect costs attributed to child abuse and neglect.

- Texas incurs direct costs of between $1.5 and $5 billion dollars annually due to child abuse and neglect.[18]

- Federal expenditures to states for major child welfare services, foster care, adoption assistance, and family preservation and support totaled more than $4.5 billion dollars in 1998, not including Medicaid spending.[19]

- The national cost of lost productivity of severely abused or neglected children is between $658 million and $1.3 billion each year.[20]

By contrast, existing studies of prevention efforts have shown the following benefits:

- Every $1 invested in substance abuse prevention saves $5.50 in costs for health care, law enforcement, and incarceration.[21]

- Every $1 invested in quality early childhood care and education saves $7 by increasing the likelihood that children will be literate, employed, and enrolled in post-secondary education, and less likely to be school dropouts, dependent on welfare, or arrested for criminal activity or delinquency.[22]

- Every $1 invested in vaccinating children against measles, mumps, and rubella saves $16 in direct medical costs to treat those illnesses.[23]

- Every $1 invested in long-term intensive home visiting to homes of infant children saves $3 in costs for government assistance and criminal justice costs according to evaluation of the David Olds' Elmira Prenatal/Early Infancy Project. The program can pay for itself in the first 4 years of a child's life.[24]

Studies by the Michigan Children's Trust Fund and the Colorado Children's Trust Fund demonstrate how prevention programs can be very effective at reducing the incidence of child abuse. A Michigan study found that responding to maltreatment costs the state $823 million annually, while the cost of providing prevention services to all first-time parents in the state was estimated at $43 million dollars annually.[25] A similar Colorado study found that responding to child maltreatment costs Colorado $402 million annually, whereas home visitation services for all high-risk families would cost the state just $24 million annually.[26]

Apart from monetary costs, abuse and neglect contribute to a lower quality of life for all Texans. Maltreated youths are significantly more likely to display a variety of problem behaviors during adolescence, including serious violent delinquency, teen pregnancy, drug use, low academic achievement, and mental health problems.[27] Forty-seven percent of all abused and neglected children grow up to be violent offenders, often abusing their own children when they become parents.[28] Children who have suffered abuse or neglect are arrested 4.8 times more often for juvenile crimes and are twice as likely to be arrested as adults.[29]

Risk Factors for Child Abuse

Effective prevention programs address the risk factors that are linked to child abuse and neglect. Numerous studies have identified the following as risk factors:

- Children with disabilities, mental retardation, serious health problems;
- Substance abuse in the family,
- Caregivers who formerly experienced child abuse or neglect;
- Domestic violence;
- Unplanned or unwanted pregnancies;
- Ignorance of parenting skills;
- Lower educational attainment;
- Poverty;
- Unemployment;
- Social attitudes that minimize the seriousness of violence and abuse;
- Political or religious views that value non-interference in families above all.

Texas' State Prevention Programs in Tatters

The budget cuts of the 78th Legislature devastated the already minimal state-funded prevention and early intervention programs in Texas. Faced with the need to reduce expenditures during an economic downturn, the Legislature's cuts to the DFPS budget in the 78th Session forced the agency to trim most of its prevention programs by 92% in order to continue offering direct services to already abused and neglected children. The cuts spelled the complete end of many programs, while other programs were reduced to such an extent that they ceased to function in many counties of the state, or were forced to rely heavily upon less stable private or local funding sources in order to continue.

In June 2004, the Legislative Budget Board and the Governor's office issued instructions for the preparation of all state agencies' Legislative Appropriations Requests (LAR) for FY 2006-07.[30] The instructions called for the restriction of each agency's LAR to 95% of the sum of amounts expended in 2004. Testimony before the Human Services Committee by outgoing DFPS Commissioner Thomas Chapmond revealed that DFPS will be forced to realize the additional 5% budget cut by further reducing what remains of DFPS' prevention programs in order to avoid cutting direct services to children and families at risk.

Currently, the state of Texas runs no cohesive, integrated, state-wide child abuse and neglect prevention program through DFPS or any other agency. This hole in the state's child welfare strategies exposes the overburdened CPS system to a future increase of new abuse and neglect cases that will further overwhelm the system. Any reforms designed to increase caseworkers and decrease caseload numbers will be unable to keep pace with the likely growth of cases in the absence of sound prevention programs that work to prevent new cases from arising.

Texas faces the choice of continuing a game of "catch up" where spending on child abuse and neglect is concerned, or increasing spending in the short term to achieve longer term cost savings as a result of eventual reductions in the number of children entering the CPS system. A fortunate benefit of many prevention programs is that they also reduce costs associated with other social problems, such as substance abuse, teenage pregnancies, and welfare dependency, resulting in further savings for taxpayers in the long term.

Texas Child Abuse and Neglect Prevention Programs

Program	FY 03 Budget **(1)**	FY 04 Budget **(1)**	Est % Change	FY 03 *Individuals* Served	FY 04 Est *Individuals* to be Served	Est % Change
STAR	$22,121,422	$18,581,994	-16.00	32,414	26,994	-16.72
CYD	$8,411,839	$7,065,945	-16.00	23,098	18,558	-19.66
At Risk Mentoring	$1,350,713	$0	-100.00	2,268	0	-100.00
Facility Based Yth. Enrich.	$464,862	$0	-100.00	681	0	-100.00
Buffalo Soldiers **(2)**	$250,000	$250,000	0.00	283	291	2.83
2nd Chance Teen Parent	$1,640,574	$0	-100.00	664	0	-100.00
Totals	**$34,239,410**	**$25,897,939**	**-24.36**	**59,408**	**45,843**	**-22.83**
Program	FY 03 Budget **(1)**	FY 04 Budget **(1)**	% Change	FY 03 *Families* Served	FY 04 Est *Families* to be Served	% Change
Texas Families **(3)**	$4,700,626	$4,450,626	-5.32	9,515	9,515	0.00
Healthy Families	$2,839,323	$0	-100.00	1,768	0	-100.00
HIPPY	$400,000	$0	-100.00	393	0	-100.00
Parents As Teachers	$375,600	$0	-100.00	413	0	-100.00
Totals	**$8,315,549**	**$4,450,626**	**-46.48**	**12,089**	**9,515**	**-21.29**
Program	FY 03 Budget **(1)**	FY 04 Budget **(1)**	% Change	FY 03 Served **(6)**	FY 04 Est to be Served **(6)**	% Change **(6)**
Tertiary Child Abuse **(2)**	$458,022	$120,000	-73.80	N/A	N/A	N/A
Family Outreach	$1,228,345	$0	-100.00	N/A	N/A	N/A
Children's Trust Fund **(4)**	$1,787,138	$0	-100.00	N/A	N/A	N/A
Youth/Runaway Hotlines **(5)**	$270,313	$227,063	-16.00	N/A	N/A	N/A
CBFRS **(3)**	$1,744,973	$1,624,973	-6.88	N/A	N/A	N/A
Totals	**$5,488,791**	**$1,972,036**	**-64.07**	**N/A**	**N/A**	**N/A**
Overall Totals	**$48,043,750**	**$32,320,601**	**-32.73**	**71,497**	**55,358**	**-22.57**

(1) FY 03 and FY 04 budgets based on LAR requests.
(3) Texas Families and Community Based Family Resource and Support (CBFRS) receive no GR.
(4) Beginning FY 2004, CTF funds will support the STAR program's primary child abuse prevention efforts.
(5) The Youth and Runaway Hotlines report calls received, not individuals or families served.

Several Notable Prevention Efforts in Texas

Early Childhood Intervention

Early Childhood Intervention (ECI) is a statewide program for families with children up to the age of three who have disabilities and developmental delays. ECI supports families to help their children reach their potential through developmental services. Using a network of local agency providers throughout Texas, ECI provides services to families and children in their homes or child care centers. ECI is considered an important intervention because disabled and developmentally delayed children are at higher risk of being abused and neglected than other children.

Research shows that growth and development are most rapid in the early years of life. The earlier problems are identified, the greater the chance of eliminating them. Early intervention responds to the critical needs of children and families by:

- Promoting development and learning;
- Providing support to families;
- Coordinating services; and
- Decreasing the need for costly special programs.

Early Childhood Intervention is funded by the federal government through the Individuals with Disabilities Education Act (*IDEA, P.L. 105-17*). State funds also contribute to the program. ECI provides evaluations and assessments of children in need at no cost to families in order to determine eligibility and need for services. Families and professionals work as a team to plan and provide appropriate services based on the unique needs of each child and family. ECI asks families who can afford to share in the cost of services to do so on a sliding scale, however it turns away no families for an inability to pay.

Healthy Families

Healthy Families was launched as a national initiative in 1992 by Prevent Child Abuse America. The program has expanded to more than 420 communities in the United States. Healthy Families links expectant and new mothers to trained staff who provide home visits and referrals to community services. Participation in the program is voluntary. Healthy Families in Texas lost all state funding in the 78th Session. The program continued in some areas with local support, but much of the state is now without its services.

"What is most compelling about Healthy Families America is that it prevents child abuse. Its success is documented. Healthy Families America helps strengthen families so children can grow to their fullest potential. Every family should have the opportunity to participate."

Sid Johnson, President,
Prevent Child Abuse America

Healthy Families programs collaborate with other family support organizations to most effectively utilize scarce resources, provide a comprehensive array of services to families, and avoid duplication of services. Prevent Child Abuse America and national partners such as the American Academy of Pediatrics, the National Association of Children's Hospitals and Related Institutions, the National Head Start Association and the Cooperative Extension Service of the U.S. Department of Agriculture, have been collaborating to facilitate partnerships among state and local affiliates so that services will be available for families with young children.[31]

All Healthy Families programs adhere to a series of Critical Elements, which represent the field's most current knowledge about implementing successful home visitation programs. Critical Elements serve as the framework for program development and implementation. Only those programs that apply for affiliation and promise to adhere to all the elements, as determined through the HFA credentialing system, may be referred to as HFA sites. In addition to helping assure quality, these basic elements allow for flexibility in service implementation to permit integration into a wide range of communities and provide opportunities for innovation. The following are brief descriptions of each element.

Service Initiation

- Initiate services prenatally or at birth.
- Use a standardized assessment tool to systematically identify families who are most in need of services.
- Offer services voluntarily and use positive outreach efforts to build family trust.

Service Content

- Offer services to participating families over the long term (i.e., three to five years), using well-defined criteria for increasing or decreasing frequency of services.
- Services should be culturally competent; materials used should reflect the diversity of the population served.
- Services are comprehensive, focusing on supporting the parent as well as supporting parent-child interaction and child development.
- All families should be linked to a medical provider; they may also be linked to additional services.
- Staff members should have limited caseloads.

Staff Characteristics

- Service providers are selected based on their ability to establish a trusting relationship.
- All service providers should receive basic training in areas such as cultural competency, substance abuse, reporting child abuse, domestic violence, drug-exposed infants, and services in their community.
- Service providers should receive thorough training specific to their role to understand the essential components of family assessment and home visitation.

Services To At-Risk Youth (STAR)

The Services To At-Risk Youth (STAR) program was developed in 1983 to assist local

communities in serving youth who often fall between the cracks of the service delivery system. STAR fills a gap in services for youth who are runaways, truants, at risk of running away, or in at-risk situations and do not meet the criteria for child protective services or services of county juvenile probation programs. Services are designed to intervene at the front end, often in crisis situations such as when a child runs away, to prevent problems from escalating further and requiring intervention by Child Protective Services or Juvenile Justice systems. The STAR program promotes healthy families and protects the safety of children and youth whether they are in the home or on the street.

Through contracts with local agencies, STAR provides 24-hour crisis intervention, emergency short-term residential care, coping skills education, and counseling for at-risk children/youth ages 0-17 and their families. Ten percent of its funding (dedicated through Children's Trust Fund) is reserved for local child abuse prevention publicity and services.
STAR is currently functioning in all 254 Texas counties, though some services have been reduced or eliminated due to budget cuts made during the last biennium. In some rural counties, STAR is the only service available to families without financial means.

The need for STAR is great:

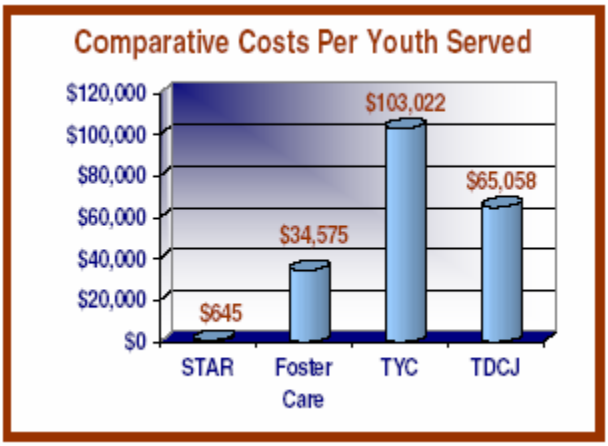
- One in 25 Texas families will have a child run away this year;
- Over 140,000 school-age children and youth in Texas are homeless;
- Cuts in mental health, substance abuse, juvenile justice, child welfare programs have resulted in larger numbers of children who need services like those offered by STAR;
- A typical high school dropout costs society an average of $378,500, a heavy drug user $571,000, and a career criminal $1.15 million.

STAR reports the following successes:

- Three-month follow-up data for STAR (FY 2003) indicated that
    - 84.7% of participants showed family conflict improvement;
    - 81.8% of youth remain better off overall;
    - 82.9% of runaways did not run away again;
    - 84.3% of truants were not truant again; and
    - 94.7% of offenders had no known subsequent offense;
- The Criminal Justice Policy Council conducted a follow-up study (released March 2003) that concluded 83% of STAR participants had no referral to the juvenile justice system one year following program exit;
- Research shows programs that encourage high-risk youth to finish school and stay out of trouble prevented five times as many crimes as harsh penalties imposed on repeat offenders.

The Department of Family and Protective Services intends to take all of its 5% mandated budget cuts from the STAR program, according to its 2006-07 LAR. Following

the cuts already made during the last biennium, STAR providers are serving 24,501 youth and their families in 2004. This is a reduction of 25% (8,325) in the average number served per year in the three prior years. The additional STAR cuts proposed by DFPS in its 2006-07 LAR are projected to force the elimination of whole programs and make services entirely unavailable in many rural areas in Texas. Additional cuts to STAR also will compromise local and federal matching funding strategies in communities, leading to more reductions in services to at-risk youth than are apparent on the face of the proposed STAR cuts. Cuts to STAR are short-sighted: reducing the use of these comparatively inexpensive front-end services can lead to much higher spending per youth later for more intensive, expensive services.



Healthy Marriage Promotion Initiatives

This Interim Report discusses healthy marriage promotion initiatives as they relate to TANF in the following section under Charge Three. These initiatives also have been positioned as tools to combat child abuse, though there is little consensus on whether or not they are truly effective in that capacity. Nevertheless, the priority placed upon marriage promotion at the federal level makes it likely that it will be a component of overall child welfare strategies for some time to come.

Prevent Child Abuse has called for more study to determine the efficacy and feasibility of healthy marriage promotion initiatives, stating:

> *Research confirms that, on average, children who grow up in families with both biological parents in a low-conflict marriage are better off in a number of ways than children who grow up in single-, step-, or cohabitating-parent households (White and Kaplan, 2003). When compared to children who are raised by married parents, children in other family types are more likely to achieve lower levels of education, to become teen parents, and to experience health, behavioral, and mental health problems. In addition, children in single- and cohabitating families are more likely to be poor and experience multiple living arrangements during childhood (Anderson Moore, Jekielek, and Emig, 2002). Despite these findings, however, most children not living with married, biological parents grow up without serious problems (Parke, 2003). Thus, research findings about the risks to children growing up in single parent families*

should not be exaggerated given that the majority of those children grow up as healthy and successful individuals.

The data supporting a positive correlation between healthy marriage promotion initiatives and reductions in child abuse and neglect is weaker than data supporting such a correlation related to the use of programs like ECI, Healthy Families, and STAR. When deciding where and how to allocate limited and precious prevention resources in Texas, policy makers should consider prioritizing healthy marriage promotion initiatives based on demonstrated effectiveness. In that light, healthy marriage promotion initiatives are the least proven measures, and should be ranked accordingly.

Substance Abuse Treatment and Drug Courts

The number of cases of child abuse and neglect that involve substance abuse is enormous. According to the Child Welfare League of America (CWLA):

> *The use and abuse of alcohol and other drugs (AOD) has a profound effect on millions of children and their families and poses a challenge to the capacity of the child welfare system. More than 8 million children in this country live with substance-abusing parents. The impact on child welfare is undeniable: Children whose parents abuse alcohol and other drugs are nearly three times as likely to be abused, and more than four times as likely to be neglected, than are children whose parents are not substance abusers.*[32]

The growing demand for effective substance abuse programs in Texas continues to outpace the supply. Substance abuse programs oriented toward the needs of women are particularly scarce. Current capacity is insufficient, and most substance abuse treatment programs do not address the need to treat the entire family. This strategy is key, because all family members are affected by substance abuse, whether they are abusers or not. Children who grow up with substance abusing parents are significantly more likely to develop drug or alcohol problems; thus, their inclusion in treatment is a sensible preventative measure. Additionally, many parents (usually mothers) who must enter a residential treatment program are hard-pressed to find a means to take care of their children if they must leave them during treatment. Some innovative programs have addressed this need by providing residential treatment that allows the children to accompany the parent during residential substance abuse treatment. These children have already lived through the horror of substance abuse; such programs allow them to participate in the hopeful stage of recovery. Unfortunately, space at these facilities is extremely limited, and funding for more of them is scarce.

Drug courts are another important weapon against the substance abuse epidemic, and the its links to child abuse and neglect. These specialized courts deal directly with an individual's substance abuse problem. By diverting these cases from the normal criminal court system, and providing the specialized services known to be effective in treating drug addiction, these courts are a better use of judicial resources, as well as a more effective means of helping families who have been damaged by substance abuse. They are also a promising means of reducing the ranks of individuals incarcerated for addiction-related drug problems.

The Drug Court movement began in Miami in 1989, and has swept through all fifty states. It is viewed as a promising method of rehabilitating offenders and an alternative to incarceration. The Office of National Drug Control Policy is reporting abstinence rates of 84%-98% for drug court program Clients and a recidivism rate of 2%-20% for drug court graduates.[33]

Texas has some experience with drug courts, namely those in Bexar County and El Paso County. Both systems could be replicated elsewhere. The mission of the Bexar County Family Drug Court is to utilize the court and the community to empower parents to live drug-free lives and gain the skills necessary to care appropriately for their children. Families who are eligible to participate in the drug court must have been referred to the Court by CPS, following the removal of children from the care of the parents. Participation in the program is voluntary, and those families who are screened and accepted for the program, but elect not to go through it are placed back into the existing court process.

Families who remain in the program receive intensive services from the community to assist them in overcoming their substance abuse problem. All providers assisting the families remain in regular contact with the Court through hearings and case staffings. The program uses a mixture of clearly defined goals, incentives for progress, and sanctions. Problems complying with the mandated treatment program are addressed early on through the involvement of the judge, court staff, CPS staff, and treatment service providers. As families succeed in the program, they are reinforced by the Court with rewards. Upon graduation from the program, an aftercare plan is developed to help maintain a drug-free lifestyle.

After receiving start-up grants, the Bexar County Family Drug Court has been operational for a full year. It has developed a variety of community partnerships that assist it in carrying out its mission. These partnerships help to lower court costs while the Court pursues a variety of diverse funding sources to continue its work. The Family Drug Court's progress is being evaluated on an ongoing basis by researchers at the University of Texas Health Science Center, as well as by Court's treatment team. In addition to helping families who have already gone through the removal process, the Court is refining processes that will prevent parents with drug problems from losing the custody of their children by treating their substance abuse problem in a timely manner that ensures the safety of the child and the unity of the family.

Legislators should consider that drug courts are not only a means to treat one of the greatest risk factors underlying child abuse and neglect, but also that they are a promising means of returning individuals to health and productivity, reducing crime, and lowering the population of drug offenders in the strained state prison system.

Conclusion

Prevention spending is a "front end" investment, but the benefits can take years to realize. Creating a statewide prevention enterprise demands perseverance and patience. Effective strategies involve continuous innovation, re-evaluation, and an iterative approach that accommodates changing needs. Lawmakers may achieve short-term cost savings during economic downturns by cutting abuse and neglect prevention programs, but these actions leave the state open to higher "back end" costs in the

future, due to increased need for more expensive maltreatment response services. Texas requires a longer-term perspective on the costs of failing to prevent child maltreatment. Lawmakers should remain mindful of the part prevention programs can play in ultimately reducing caseloads and associated case management costs, and lowering the state's overall child welfare expenditures. The cuts made to child abuse and neglect prevention programs during the 78th Session were short-sighted and can be expected to lead to another wave of new cases, higher costs, and lost lives in the future.

III. Family Based Safety Services

The Child Protective Services Handbook (CPHB) emphasizes that the agency's paramount concern is for child safety, health, and protection, however CPS policy favors keeping families intact to accomplish this goal. In-home safety services are the means by which CPS attempts to accomplish this goal.

In Home Safety Services

In home safety services are protective services provided to a family whose children have not been removed from the home. CPS may provide In Home Safety Services to any family that needs assistance to reduce the likelihood that a child in the family will be abused or neglected in the foreseeable future. There are three levels of In Home Safety Services: regular, moderate, and intensive. The level of service is determined by the degree of the risk of removal. Any of these services may be provided directly or through contracts.

- Regular in home safety services are protective and support services provided to a family whose children are not in a court-ordered placement. CPS may provide these services to any family that needs CPS assistance to reduce the likelihood that a child in the family will be abused or neglected in the foreseeable future.
- Moderate in home safety services are a form of intensive services provided to families that need assistance to protect a child from abuse or neglect in the foreseeable future. Families receiving moderate services have high risk of abuse or neglect and the alternative to providing moderate services may be to remove the child from the home.
- Intensive in home safety services are provided to families that need intensive assistance to protect a child from abuse or neglect in the immediate or short-term future. The alternative to providing intensive services is to remove the child from the home.
- Reunification Services

CPS provides reunification safety services to families whose children are returning home at the end of court-ordered placements in substitute care. It does not describe the services that CPS provides to families over the general course of a child's stay in substitute care, even though those services are usually directed towards family reunification. The purpose of the services is to provide support to the family and the child during the child's transition from living in substitute care to living at home. There are three levels of reunification services: regular, intensive early, and intensive family reunification safety services. Any of these services may be provided directly or through contracts.

CPS provides regular reunification safety services to families whose children are returning home at the end of court-ordered placements in substitute care. The purpose of the services is to provide support to the family and the child during the child's transition from living in substitute care to living at home.

Intensive early reunification safety services are provided to families when a child has been in substitute care no longer than 30 days. In many of these cases the children are

returned home by the "14-Day Show Cause Hearing." Risk factors are high in these cases and intensive support services are needed.

CPS provides intensive family reunification safety services to families whose children have been placed in substitute care for a 30-day period of time or longer. Depending on the length of time a child has been in substitute care, the family may need various levels of support to rebuild the parent-child relationship. These families should be provided with a continuum of services through community agencies, CPS services, and extended family support. These resources are used to assist the child and family through the reunification process.

Conclusion

CPS relies heavily upon family based services to protect children who are not removed from their homes. The safety of children in community care depends upon the careful design and funding of these programs, as well as sufficient numbers of well-trained caseworkers to monitor the success of the program in each individual case.

IV. Community Partnerships

Human services agencies, schools, faith-based groups, health care facilities, businesses, and other agencies and organizations all have a stake in helping to prevent child abuse and neglect. Working in isolation, these groups often struggle to find the resources to make an impact on the lives of children and families. Working together, they can combine resources to prevent physical and emotional harm to children, build strong families, and help communities thrive.[34]

Federal programs increasingly require community programs to collaborate in serving children and families. This practice can improve service delivery by eliminating duplication of programs for children and families and filling in gaps where services are needed. Overall, community collaboration for the prevention of child abuse and neglect provides many benefits, such as:

- Enabling prevention programs to address the strengths and needs of individual families by creating a wider array of services;
- Linking child abuse prevention efforts to broader community initiatives and priorities;
- Assisting agencies and organizations in gaining access to community leaders, target audiences, and other resources;
- Helping communities shape the strategies and network of services based on their own resources, needs, and culture; and,
- Providing an opportunity for agencies and organizations to share in the costs of preventing child abuse and neglect by blending funding resources. [35]

The old adage "it takes a village to raise a child" is the fundamental basis of community partnerships. These partnerships located in the local community assist in protecting and caring for a child as well as strengthening a family in need.

Communities that have instituted partnership models have been successful in taking advantage of existing resources and expanding them. These models emphasize early provision of supports and services to families in need. According to a recent evaluation by Chapin Hall Center for Children of four communities, the partnership approach is both strengthening collaboration across community agencies, and increasing vulnerable families' access to critical services, such as substance abuse treatment, mental health care and domestic violence services. These partnerships are also improving the quality of the corollary services these sister agencies provide.[36]

The Family-to-Family initiative developed by the Annie E. Casey Foundation works to increase community and family involvement in decision-making about children's placement and in developing and supporting neighborhood foster care. This initiative is producing significant reductions in out-of-home placement in cities like Louisville, Kentucky and Cleveland, Ohio, among other places.[37]

The premise of the community partnership approach is that children's safety depends on strong families, and strong families depend on connections with a broad range of people, organizations, and community institutions. No single factor is responsible for child abuse and neglect; therefore no one public agency alone can safeguard children. Partnerships engage community members and agencies to reach out and support families before they face crises; intervene more rapidly, comprehensively, and effectively when abuse and neglect occur; and

join with the public child welfare agency to improve child protection policy, programs, and practice in ways that more reliably strengthen families and more aggressively safeguard children. [38]

This effort began with four sites—Jacksonville, FL; Louisville, KY; Cedar Rapids, IA; and St. Louis, MO—and is now being implemented in over 40 communities in those four states and Georgia. They employ a common set of strategies, including:

- Partnerships establish staff capacity within CPS and other agencies to engage family members as planning partners, assess a full range of family issues, and build a team to support struggling families;

- Child protection workers are assigned cases geographically and may be based within community agencies along with family support workers, battered women's advocates, substance abuse treatment providers, and mental health services staff;

- Partnerships use aggressive outreach to identify vulnerable families and connect them with appropriate support; and,

- Leadership development opportunities help local residents deepen their involvement with the partnerships' work. [39]

Some preliminary findings are emerging from the sites:

- A Florida Department of Children and Families study found rates of repeat reports were nearly 30 percent lower for families served by the Jacksonville Community Partnership than for families receiving traditional services; and,

- The Louisville Community Partnership catchment area, working in concert with a system-wide Family-to-Family initiative, shows a 75 percent reduction of children in placement. While placement rates have declined across the city, partnership neighborhoods show the most dramatic decrease. [40]

A growing number of states have realized that the traditional one-size-fits all model of responding to reports of child abuse and neglect through investigation and substantiation is not consistently ensuring child safety, does not serve families well and frequently stymies public agencies' capacity to address specific family needs. These states and communities are developing approaches that enable workers to move directly to assessment and linkages to services in situations where a full-fledged investigation is not necessary to ensure a child's safety. [41]

As a result, there are multiple places around the country implementing changes that are variously called "differential response," alternative response," "dual track," or "multiple track." A differentiated response system, which enables provision of services quickly and in a supportive and non-adversarial way, makes timely and appropriate decision-making for a child more likely and has the potential to expedite permanency options in the event the child cannot remain in the care of the biological family. In those places where the strategy is designed to encourage individualized responses for families, and is combined with increased services and supports, it has had positive effects. In some states, it is providing opportunities for families to receive services they might otherwise not have accessed. [42]

Washington State has long used risk assessments rather than substantiation as a key criterion to divert lower risk reports of child maltreatment to community-based services. Early evaluations of their approach demonstrated that these lower-risk cases are less likely to be reported for re-abuse, though continued issues arose in cases in which families had a history of long-term problems or there was evidence of domestic violence. After establishing, in the early 1990s, a stronger network of community-based services to address these concerns, the state legislature, in 1997, made an "alternative response" system mandatory, and it has been implemented statewide since 1999. Many other states, including Missouri, Kentucky, South Carolina, Minnesota, Michigan and Louisiana have instituted some form of differentiated response system, with promising results. [43]

Some children repeatedly come to the attention of the child protection system. By identifying these children and their families and giving them special attention, it may be possible to engage the family more directly and intensively, including involving them in the development of an appropriate safety plan. Cedar Rapids, Iowa, one of the four initial Community Partnership sites, has instituted a system of "flagging" cases for special attention if they have three or more reports to child protection. This flagging system generates a special review and usually leads to convening a "family team meeting" with child protective services staff and other partner agencies. [44]

It is also known that interventions matter, especially for children who have been traumatized by abuse or have been exposed to violence between their adult caretakers. Two pioneering programs, at San Francisco General Hospital and Boston Medical Center, offer clinical services for battered women and their traumatized young children. Both of these programs are demonstrating that these intensive clinical supports can result in positive changes in parenting behavior and positive changes in children's conduct and functioning.[45]

State Community Partnerships

Greater Texas Community Partners (GTCP)[46] is a cooperative effort between communities across Texas and the CPS program of the Texas Department of Family and Protective Services. This public/private relationship helps frontline caseworkers assist abused and neglected children and their families.

GTCP provides resources and support to community-based efforts that work in partnership with caseworkers. This organization heavily relies on volunteers to support caseworkers in their efforts protecting children from abuse and neglect.

GTCP supports local community partners by:

- establishing statewide programs benefiting children;
- providing guidance for program development;
- training volunteers and board members;
- assisting with fundraising strategies; and
- developing individual, business and corporate partnerships, enabling local partners to purchase needed items as reduced rates.

The two programs supported by GTCP are the Rainbow Room and Adopt a Caseworker. The Rainbow Room is an emergency resource center which provides clothing, baby formula, school supplies, hygiene products, and other necessities to children who enter foster or relative care and to children who are still at home, but are under the poverty line. A caseworker is able to access this center and furnish the caregivers with much needed items. For example, when a grandparent who is willing to take in a baby or a toddler, but does not have the resources to meet the needs of that child, then a caseworker can access the Rainbow Room and provide that grandparent with diapers, crib, bottles, formulas, and other necessities.

The Adopt-a-Caseworker program connects the caseworker with individuals, churches, businesses, and organizations in an effort to meet specific needs of children. Adopting groups reduce the financial burdens for caseworkers and offer moral support. If a caseworker cannot meet a need through the available resources, then the caseworker contacts their group for help. The groups provide items such as birthday presents, prom dresses, household goods, and groceries.

In 2003, GTCP:

- Served over 39,568 children;
- "Adopted" 370 caseworkers;
- Received $639,900 in cash and grants which it donated to help CPS children;
- Received $1,371,828 gifts-in-kind donated for CPS children;
- Organized 5,864 statewide volunteers to work together with CPS;
- Donated 38,535 volunteer hours.

GTCP can be replicated in many areas of Texas to provide increased community participation in child protection.

Community Based Family Resource and Support (CBFRS) Program [47]

CBFRS seeks to develop community and state provider networks and involves parents in preventing child abuse and neglect. The program supports the work of community-based networks to develop and coordinate child abuse prevention services and awareness. Projects supported by CBFRS are in Bexar, Dallas, Denton, El Paso, Galveston, Jefferson, Harris, Midland, Potter, Randall, Tarrant, Taylor, Travis, Tom Green, and Webb. The CBFRS program also supports statewide child abuse prevention awareness, respite care programs, the development of a parent education resource network and an evaluation of the program.

Texas Families: Together and Safe

Texas Families: Together and Safe is a DFPS program of family support grants. Family support services are provided through community-based prevention programs. These programs are designed to alleviate stress, promote parental competencies and increase the ability of families to successfully nurture their children. Families are provided information about resources and opportunities available in their communities.

The information is intended to reduce social isolation by promoting the development of support networks for families. Ideally the support networks will help to reduce the risk of child abuse and neglect by increasing personal responsibility and family self-sufficiency. Program control,

including the selection of services offered families, is maintained at the community level. When requested, PEI provides training and technical assistance to individual programs.

Tertiary Prevention for Child Abuse

The Tertiary Child Abuse/Neglect Prevention Program provides community-based, volunteer-driven services for prevention, intervention and aftercare for children who have been, or who are at risk of being, abused and/or neglected.

The goals of the program include reduction of child maltreatment and fewer families reentering the Child Protective Services system, improvement in the quality and availability of aftercare services for abused children, and enhancement of a statewide network of tertiary child abuse prevention programs.

NETCARE

NETCARE—an acronym for **"**Neglect Ends Through Collaboration of Agencies, Resources and Education" is an innovative collaborative initiative to reduce child maltreatment in Tarrant County. The goals of NETCARE are:

(1) to provide and/or coordinate needed services to families with children at risk of abuse or neglect, and
(2) to increase public confidence in the value of reporting to the Texas state office of Child Protective Services (CPS).

NETCARE ensures action will be taken on every report of abuse and neglect in Tarrant County.

NETCARE is a community-based collaborative response model that "offers" services to families who will not "qualify" for state-mandated intervention but where children are nevertheless in need or at-risk of harm. Through NETCARE, individualized assessments, community services and case management are offered to families of children about which a report of abuse or neglect has been made to the state CPS hotline but whose situation does not fit the statutory definitions for abuse and neglect – reports that cannot be handled by CPS (priority none cases). By providing early intervention to these families, more serious types of child maltreatment are likely to be prevented. Children will hopefully be diverted from CPS investigations or even costly foster care before such action is needed.

NETCARE is a unique action strategy that was a product of the *Neglect Hurts* study coordinated by Tarrant County Youth Collaboration (TCYC) and the Tarrant County CPS Board in 2000-2001. It is a cooperative model with:

- Services provided by the regional CPS office and staff,
- Case management provided by The Parenting Center,
- Family services furnished by various Tarrant County community-based organizations and businesses and
- Fiscal and administrative coordination managed by TCYC.

NETCARE STATISTICS
2003-2004 (Through 9/30/2004)

	2003:	2004:	Total:
Families referred to NETCARE	**661**	**634**	**1295**
Declined Services	**185**	**203**	**388**
Unable to Serve	**149**	**163**	**312**
• *Children no longer in the home*			
• *Unable to locate*			
• *No response to attempts to contact*			
• *Out of Tarrant County*			
• *Child over 18 years old*			
Eligible for Services	**512**	**471**	**983**
Accepted Services	**327**	**275**	**602**

	2003-04:
Created a Family Service Plan:	**294**
• *Lost contact after services began:* 28	
• *Family chose to exit after services began:* 64	
• *Transferred to other case management agency:* 11	
• *Successfully completed Family Service Plan:* 148	
• *Other – Information & Referral:* 43	

Breakdown of Referrals Program-to-Date (1295 referrals)

	Physical Abuse: 478 families	Physical Neglect: 119 families	Neglectful Supervision: 372 families	Emotional Abuse: 36 families	Sexual Abuse: 196 families	Medical Neglect: 94 families
% of 1295 families:	**37%**	**9%**	**29%**	**3%**	**15%**	**7%**

Outcomes from Various NETCARE Service Areas:

Service Area:	*Less than successful:*	*Successful/Highly successful:*
Utility Assistance:	12.5%	87.5%
Clothing:	18.2%	81.8%
Financial Assistance:	22.4%	77.6%
Household necessities:	25.0%	75.0%
Health and medical needs:	27.5%	72.5%
Child Care:	37.0%	63.0%
Housing and transportation:	40.0%	60.0%
Food assistance:	42.3%	57.7%
Parenting skills training:	42.6%	57.4%
Counseling and interpersonal issues:	43.2%	56.8%
Legal assistance:	45.5%	54.5%
Education assistance:	55.0%	45.0%
Employment services:	55.3%	44.7%

NETCARE begins with state CPS referrals of *Priority None* Tarrant County referrals back to Tarrant County CPS. TCCPS reviews those referrals to ensure their *Priority None* status then refers them to The Parenting Center.

TPC case managers are then assigned to contact the family and explain the assistance the program provides. A family assessment is completed to help them identify their strengths, and assistance is provided for 30 to 90 days through case management, parent education, and referral to collaborating agencies.

When the project was designed, it was anticipated that approximately 40% of the clients referred would actually accept the voluntary services. However, in the first year of the project (2003), CPS referred 661 families to NETCARE. Of these, 512 were eligible for services and 327 (64%) accepted the voluntary services. The cases involved allegations of physical, emotional, and sexual abuse; medical, physical, educational, and developmental neglect; and neglectful supervision.

NETCARE uses a family centered approach to ensure the safety of children and other family members. The case manager works as a partner with the family during the assessment process to recognize and build on the family's strengths, capacities, and resources and uses those as the basis for mobilizing change. The goal is to create a climate where the family is free to make decisions and develop skills that contribute to the well-being and safety of all family members. Respect and sensitivity to cultural differences and supporting diversity is a key element of the process. The case manager gains the family's trust by ensuring them that he/she is not an investigator, but is there to help them. The case manager listens to the family's story in a non-judgmental way and offers support where it is needed to help formulate a family-led plan.

The family service plan reflects the goals of the family and what they want to happen or change. The family decides what their family will look like when the case is closed. The case manager helps the family identify the issues they are facing and how to resolve the conflict. Each family

service plan is unique and reflects what is important to the client as obtained from information gathered in the assessment. It contains concrete, specific, and behavioral goals, focusing on realistic and achievable outcomes. The family plan is written in the family's own words and agreed upon by the case manager and the family.

NETCARE staff work to win the trust of and build rapport with the referred families. Together, family members and case managers assess strengths, needs, and determine appropriate services. In addition to emotional support from NETCARE staff, services may include parent education, counseling, emergency financial assistance, individual advocacy and case-coordinated referral to numerous other collaborating agencies or community services for needs such as child care, legal advice, health care, housing, home repairs, or others.

NETCARE is presented as a positive option rather than a punitive measure in response to the report to CPS. Families are encouraged to participate but their choice to do so or not is uniformly respected. Some families who initially chose not to accept NETCARE services at first, have later called the case manager to ask for more information or assistance.

Blue Ribbon Child Abuse Prevention Task Force

The Blue Ribbon Child Abuse Prevention Task Force (hereinafter Task Force) is a collaborative effort of local Bexar county elected officials including State Representatives and Senators, county commissioners and judges, city council members, the District Attorney, and law enforcement and health officials.

The goal of the Task Force is to develop a pilot project for Bexar County that encompasses all services targeting abused and at-risk children. The Task Force will review adoption and foster care practices, the establishment of community partnerships, and case management improvements designed to make the CPS system more efficient and effective in the prevention of child abuse and deaths. Findings will be reported to the Legislature for consideration in the upcoming legislative session in 2005.

Conclusion

Community partnerships are vital in the effort to protect children in community care. Even with sufficient funding, DFPS would be incapable of providing all the resources that provide a safety net for children left in their communities. DFPS must explore innovative new partnerships with community organizations to identify strategies for protecting children, as well as strengthen existing partnerships that have been damaged by recent negative publicity and a history of poor relationships with the agency.

V. Data Sharing & Information Technology

Children and families who enter the CPS system come encounter a wide array of government agencies (local, state, and federal) and private organizations, including:

- Law enforcement authorities
- Medicaid, Medicare, and the Social Security Administration
- Women, Infants, and Children (WIC) programs
- Courts and court-appointed legal representatives (e.g. guardians and attorneys *ad litem*)
- Juvenile probation authorities
- Public health authorities, health care facilities, and private practitioners
- School systems
- Child Advocacy Centers (CACs)
- Private child placing and social service agencies
- Residential facilities

The list above is not exhaustive, but it provides a glimpse of the complex array of relationships that many CPS cases entail. Managing and coordinating the flow of information and services between numerous agencies at all levels of government and between the public and private sector is a challenging task. Variations and inconsistencies in standards, policies, rules, and laws can make sharing case data a frustrating obstacle course. Misunderstandings of regulations (e.g. new HIPAA rules) prevent the exchange of information without need. Duplication of services is a frequent, costly, and sometimes dangerous outcome. Alternatively, some children never receive necessary services despite the extensive network of organizations involved. Children, families, and care providers are overwhelmed by the bureaucratic maze they enter when CPS opens a case. Frustration, confusion, and feelings of being lost in the system are frequent complaints from clients and service providers.

The number of parties that are involved when a child is placed in foster or community care can increase substantially depending on where the child is placed and how often the placement changes. Due to shortages of foster care homes and other facilities that care for children, many children are moved away from their home counties and the network of providers that cared for them in the past. Short placement periods and frequent moves compound this problem numerous times in the lives of some children, creating a checkerboard of records from schools, physicians, and psychologists, etc. Additionally, the movement of children across state lines and between child protective services agencies presents a challenge due to differing state reporting laws and regulations, non-interoperability of data systems, and the general difficulty of tracking individuals who move frequently and often lack fixed addresses and telephone numbers.

An increased use of public-private partnerships will lead to increased generation of data and a greater need to share it quickly and efficiently between all parties concerned. If the Legislature chooses to rely on increasing the use of public-private partnerships to manage the care of individuals in community and foster care, it must pay closer attention to the need for better use and sharing of data and information technology. Improving coordination between numerous parties will require a clear definition and alignment of agency goals, cross-organizational public-private cooperation, better technology and data-sharing standards and practices, and legislatively-driven regulatory reform and oversight. Only the State is in a position to ensure that such efforts are properly funded, rigorously overseen, and continually improved.

Texas' Use of Technology in Child Protection

Case Management

The Child and Adult Protective System (CAPS) was introduced in 1996 and functioned as Texas's comprehensive Statewide Automated Child Welfare Information System (SACWIS) until August 31, 2003. CAPS was replaced with the web-based application called Information Management Protecting Adults and Children in Texas (IMPACT), which now operates as the statewide system for CPS and APS. All agency staff interacts with the system to complete their job functions. [48]

The implementations of CAPS and IMPACT changed the way that DFPS conducts business. IMPACT is available statewide 24 hours a day, seven days a week, and it supports all aspects of casework from intake to post-adoption services, providing a complete case record. The accessibility of all case-related information allows for increased monitoring of CPS cases.

The consolidation and centralization of automation has improved case management. Cases can be accessed simultaneously, allowing for flexible case reporting and monitoring. All CPS field staff can access IMPACT to input data. Supervisors can electronically review case information and documentation at any given time, allowing simplified case management evaluations. Additionally, the use of the CAPS and IMPACT applications forced statewide standardization in forms and enforced system-wide edits applied to all casework activities. For example, an investigation cannot be closed without completion of a risk assessment or acknowledgement that a risk assessment is not appropriate for that specific case. For placement activities, IMPACT prevents caseworkers from placing children in facilities that do not have contracts with the agency and that are not approved for the correct level of care. Edits in the automated system increase the likelihood that data is entered promptly and accurately.

Statewide Intake and Reporting

The Statewide Intake (SWI) 24-hour call center uses industry standard hardware and software to route calls, operate the phone system, manage the workforce, and provide management information, including:

- Rockwell Automatic Call Distributor (ACD) - Automated phone switch used for routing calls for outside the agency, internal calls of agents, and outbound calls from agents. The ACD uses internal telescripts to route calls to agents based on certain criteria taken from the call data stream and information entered by the caller. The ACD provides call tracking data through pre-defined reports for the management teams. The ACD also provides data to the Dictaphone recording system and the Genesys workforce system.

- Genesys Workforce Management Software - Workforce Management provides optimal schedules for multi-skilled agents who may handle customer interactions of different media types. The solution can consider a wide range of agent variables within the forecasting, scheduling and adherence components, including: agent preferences, job skills and proficiency, customer segmentation, and historical trends such as email response times, and outbound call length.

- Dictaphone Freedom - Voice recording system that captures all incoming and outgoing phone calls digitally. This software provides multiple ways to access and share voice recordings. Calls can be retrieved using expanded search criteria. Voice files can be

accessed and shared from any multi-media PC over any LAN/WAN, Internet or intranet system; and, they can be e-mailed.

- Dictaphone QMS - Reporting system used in parallel with the Dictaphone recording system. Allows for the evaluation of calls received by agents, and the data they enter into the SWI database. The QMS system provides a report that can be used in the training of agents and the on-going training of current agents.

- Fax Server - New service used to replace current fax machines located in regional offices. Incoming faxes are received into the server through a network of T1 phone lines. Administrators of the servers then move the faxes out to the appropriate agent or group through the current e-mail system.

- Reader Boards - Display boards are used to present call data from the Rockwell ACD. This data reflects the calls in queue, hold times, and time to answer. The information displayed is updated continually during the operation of the facility. Reader boards can also be used to present messages to the staff of current events, weather conditions, or information of concern.

- DPS Direct Access Website - Certain staff at SWI have access to the official Internet source of DPS public record information for Criminal Convictions, Deferred Adjudications and Sex Offender Registrations.

Several key components of the intake system have reached the end of their useful lifespan; they require replacement in order to ensure that the system continues to function properly. The use of a centralized intake system with one point of entry for all reported cases is intended to increase intake efficiency, but it also creates a system with one major point of failure where reporting is concerned. Proper maintenance of the supporting technology underlying the intake process should be a paramount concern in order to maintain the strength of the centralized intake system and reduce its liabilities. A failure to provide for sufficient intake technology upgrades can jeopardize the entire CPS enterprise at its foundations.

Interstate Data Sharing

Children in CPS care routinely leave the state to enter care in state systems across the nation, and the reverse is also true. Currently, the flow of data following these children is anything but dependable. In many cases, even the location of children who enter or leave care in various state systems is difficult to track. Apart from pursuing updated legal agreements governing the movement of children in care across state lines, Texas should work with other states to improve systems that provide the information flow vital to proper case management, regardless of where a child is eventually moved.

Judicial Proceedings

Caseworkers and supervisors are required to spend large amounts of time in court to attend hearings. Courts are already utilizing teleconferencing technology in many counties in an effort to save time and transportation costs associated with court appearances. Increased use of these technologies for CPS-related court appearances can result in cost savings for the courts and CPS, while also saving resources by allowing caseworkers and supervisors to multitask as they await their turn before the court.

Increasing the Use of Information Technology

Technology solutions can be employed in the following areas to improve the child protection enterprise:

Medical and Educational "Passports"

In testimony before the Committee, witnesses frequently discussed the need for a system capable of accurately managing and recording the medical and educational histories of children in community and foster care. Such a system must be readily accessible by all parties involved in the care of a child from a variety of locations and environments. Many children in care move from community to community, receiving diagnoses, vaccinations, therapies, and medications that are not properly recorded. As a result, children sometimes receive duplicate services or fail to receive them at all. The generally poorer health of many children in care increases the need for improved health data management. Similarly, the special education needs of many children in care are often unmet due to poor documentation of their past history in the school system.

Medical passports have been proposed as a tool to assist with the storage and dissemination of children's health data in the hopes of improving the quality of their medical care and reducing waste and non-essential services. The term "medical passport" actually refers to several different concepts and systems that are largely unrelated, and is therefore somewhat confusing. It has been used variously to refer to documents that help physicians to practice in multiple jurisdictions; documents issued to international travelers to demonstrate immunizations; documents issued to migrant children receiving medical care in multiple states; and documents representing an individual's health records. The concept is further confused by the lack of any designated, standardized technology platform or data standards that would be used for medical passports.

With regard to their proposed use for children in foster or community care, medical passports can consist of any comprehensive recording and storage of health data that applies to an individual child; accompanies that child wherever she or he is placed; and can be accessed by authorized individuals as needed. Several states are already using some form of a medical passport, including Michigan, Washington, and California.

During the 78th Session, medical passports were discussed as possible tools in the effort to improve and track immunization of the population. Some opposition to the use of medical passports arose at that time, largely related to concerns over the privacy and security of the health data associated with them. As debate over the immunization issue shifted direction, medical passports were left behind, but calls for their use have reemerged in the Comptroller's report "Forgotten Children" and in hearings before the Select Interim Committee on Child Welfare and Foster Care.

Mobile Technologies

The use of wireless Internet access, tablet computers, and mobile phones can increase caseworker productivity and enhance client safety. In the HHSC Final Report on Executive Order RP 33 (APS Reform), the Commission outlined plans for the increased use of mobile technologies to enable APS caseworkers in the field to have more access to the information and communication technologies. CPS caseworkers require similar resources to do their work.

CPS caseworkers already utilize mobile phones on a routine basis. However, caseworker anecdotes revealed that mobile phone stipends were inadequate to cover the costs of using mobile phones in the field for case-related communications, and that stipends were not always paid to caseworkers in a timely fashion.

Web-based Training and Awareness Resources

Information technology can assist in raising awareness and improving training.

- Caseworkers can use self-paced, online learning tools to supplement their training and fulfill continuing education and certification requirements;

- Mandatory reporters can use online resources to assist them in fulfilling their statutory obligations. The state of Virginia has used web-based tools to educate mandatory reporters about their responsibilities;[49]

- Child abuse awareness training can be delivered to all individuals who need it via the Web at a comparatively low cost.

Automated Evaluation Mechanisms

Proper evaluation of outcomes is vital for the selection of best practices in child protection. Information technology solutions can improve the data gathering processes that are necessary to evaluate current practices and design those for the future. CPS caseworkers routinely report being overwhelmed by the required documentation that accompanies virtually every case that enters the system. Information technology has the potential to make the gathering of evaluation data a more seamless, automated process. The result is an increase in the time a caseworker has to devote to the well-being of each child.

Conclusion

CPS has benefited from the development and use of information technology systems like IMPACT and the Statewide Intake call center. However, the potential of these systems to improve child protection services has been limited largely to state agencies operating within DFPS. A successful child protection system involves numerous partners from all areas of government and the private sector. A successful child protection system also requires each partner to have timely access to the data needed to properly manage a case from intake to closure. DFPS must explore ways to improve the sharing of data among all parties concerned with the welfare of a child in care, including the development of technology solutions that allow case records and medical and educational information to be immediately accessible to all parties who need it, regardless of a child's placement location.

The nature of CPS casework requires that many job functions must take place away from a caseworker's office. At the same time, CPS casework is documentation-heavy by law and practice, and the use of technology to properly manage a case is essential. Therefore, the development of mobile technology solutions that simultaneously reduce the time caseworkers spend at their desks while improving their ability to properly document and manage cases should be a priority for CPS. Furthermore, casework in the field depends upon the use of mobile communications (e.g. mobile phones). Sufficient funding of such tools without cumbersome allowances and/or reimbursement schemes is crucial.

The development and implementation of technology solutions is a continuous process that requires the involvement of stakeholders to design the best possible system for all concerned. Regular consultation and collaboration with partners in child protection is necessary to ensure that technology solutions result in more coordinated, efficient systems that yield improved outcomes and, hopefully, lower costs. The increased use of public-private partnerships in child protection makes this approach a requirement, not an option at HHSC's discretion.

Finally, the Committee notes that technology is too often portrayed as a panacea for complex problems like those facing CPS. While technology can be of enormous help to CPS as it fulfills its core mission, it is essential to view the use of technology as an adjunct to sound policies and practices, with the latter preceding the former.

VI. Transitioning Youths

For most young Americans, the transition to adulthood is a time for excitement, as well as trepidation. However, many youths who have grown up in foster care find themselves on the brink of "ageing out" of a system that has poorly prepared them for their adult lives. Many of these youths grow up without making connections to people and resources that will help them in the future. By the time they reach their early 20s, many find themselves facing adulthood unprepared, unsupported, and dispirited. Currently, in the United States, it is estimated that there are 3.8 million youth between the ages of 18 and 24 who are neither employed nor in school—roughly 15 percent of all young adults. Since 2000 alone, the ranks of these non-engaged young adults grew by 700,000, a 19 percent increase over a 3 year period. A significant number of these 3.8 million children do not have the skills, support, experience, education, or confidence to successfully transition to adulthood. [50] A large number of them were products of community and foster care systems.

A disproportionately large share of children leaving foster care comes from minority and low-income families. As a group, their lack of preparation for adult life will make it more difficult to secure good jobs with a future; it is more likely that they will have difficulty advancing beyond low-wage work. These young adults face greater odds of being incarcerated, and they are more likely to be victims of violent crime. With fewer earning opportunities, adequate housing will be more difficult to find. With diminished ability to build economic security, they will be considerably less likely to become stable providers for their own children. In sum, these disconnected youth—as a whole—face a much greater likelihood of bad outcomes, now and in the future, than their peers.

For adolescents in our nation's foster care system, the transition to successful adulthood is particularly rocky. In 2000, approximately 16 percent of the roughly 550,000 children in publicly supported foster care were between the ages of 16 and 18. About one-third of these youth had been in care for at least 2 years, and one-fourth had been in care for 5 years or more. It is estimated that each year about 20,000 young people leave the foster care system at age 18 (the age at which most states relinquish legal responsibility for these youth) without being adopted or returning to families.

The problems of adolescents in foster care are compounded by their considerable physical and mental health problems. An estimated 30-40% of foster children have physical or emotional difficulties. Those leaving care are at especially high medical risk and likely to have acute, chronic, and complex health needs resulting from past neglect or abuse. Yet a major problem for this population is a lack of even minimal medical insurance coverage. Without medical insurance, these youths run the risk of incurring high medical bills if faced with an emergency; going without appropriate preventive medical treatment; and going untreated for chronic conditions, such as asthma and depression. A 2001 longitudinal study of youth leaving care found that 44 percent had problems obtaining health care "most or all of the time."

While many foster youth overcome the obstacles and challenges of growing up apart from their birth families, significant numbers do not. Research indicates that these foster youth are behind educationally and have disproportionately high rates of special educational needs. Some studies report high school dropout rates among foster youth as high as 55 percent. They also fare poorly on other predictors of successful adult transition. For example, examinations of foster care alumni found that 2 to 4 years after leaving foster care, only half were regularly employed, more than half of the young women had given birth, and a significant number were

dependent on welfare support. Nearly half of the population had been arrested, and a quarter had been homeless.

A study of employment outcomes among children exiting foster care near their 18th birthday in California, Illinois, and South Carolina during the mid-1990s found that these youth have mean earnings well below the poverty level and earn significantly less than youth in any of the comparison groups both prior to and after their 18th birthday. All of this is not surprising, given the trauma that many of these young people have experienced, and their lack of family connections and support when they leave foster care. Most have been abused or neglected; some have been abandoned by their families. Many youth in foster care have been placed in marginal group homes, rather than with good foster or relative families. Many have bounced from placement to placement without any real stability or ongoing family ties. These neglected kids have been underserved by the very system that was designed to provide them with the strong families they need.

The expectation that these youths from troubled backgrounds will be capable of functioning independently upon reaching the age of 18 is naïve at best. Experience informs us that most 18-year olds, regardless of their economic or educational status, are not capable of assuming full adult responsibilities by that age. In fact, a nationwide survey indicated that a majority of respondents felt that the average young adult is not ready to be completely on his or her own until about age 23. A third did not consider them ready until age 25 or older. Yet, each year, approximately 20,000 teenagers “age out” of foster care by virtue of having reached the age at which their legal rights to foster care end. Most entered foster care as teenagers, and too few (given current practice and policy) are reunited with their birth families or adopted. For the most part, adequate preparation for this critical transition is simply not provided.

Despite the fact that Congress passed the Foster Care Independence Act—also known as the Chafee Act—in 1999, which doubled federal spending and expanded aged-out foster children's eligibility for services to age 21, neither the funds appropriated (less than $1,000 per year, per eligible youth) nor the state and county systems charged with addressing the needs of this population have so far been up to the challenge. A state-by-state analysis of policies that promote successful transition indicates that the scope and quality of services provided to current and former foster youths, and the eligibility requirements for these services, vary widely.

In general, states provide minimal and uneven assistance with education, employment, and housing, and only a few states provide essential health and mental health services. For example, less than one-third of the states offer former foster youth ages 18–21 access to Medicaid coverage. And although most states provide some mentoring services, they generally do not utilize other methods of enhancing youth support networks. Perhaps most important, the inability of foster care systems to routinely place teenagers with strong foster, relative, and adoptive families puts them at great risk of not having a network of adults available as they transition to adulthood—a transition that is challenging even for youth who have families supporting them.

Ageing Out in Texas: The Texas Foster Care Transition Project

Texas' foster youth face the same problems and obstacles as their peers across the nation. The Texas Foster Care Transition Project (hereinafter "Project"), conducted by the Center Public Policy Priorities (CPPP), interviewed former foster care youths in the central Texas area, specifically Austin and San Antonio. The research project focused on youths who had

transitioned from foster care to independent living in 1990 and 1999. Additionally, to gain a better understanding of the issues faced by these youths, 22 service providers and foster parents were interviewed Those targeted for the study were found to be a highly mobile and disconnected population and thus were very difficult to locate. Of the 513 former youths project designers hoped to contact, only 30 were found.

The Project found that these youths do not have a formal system of support and thus, are at greater risk of poverty and homelessness, victimization and criminal involvement, illness, early childbearing, and low educational attainment. In addition, they show signs of emotional problems, fractured emotional and social attachments, and dysfunctional relationships as a result of past experiences. Furthermore, there are inconsistent living services for youths. Only half of the youths interviewed had received services through the Preparation for Adults Living Program (PAL) which is provided by TDFPS. Many of the youths leave care before these services are provided and refuse to participate in PAL. Several other youth stated that they would have participated in PAL, but did not know it existed; or they lived in rural areas were PAL was not available. Although some of the participants found PAL to be helpful, others said it did not adequately prepare them for living on their own.

These youths also faced physical and mental health problems that went untreated because they did not have access to health care services. Close to half (40%) of the youth interviewed by the Project had health problems but more than half (58%) of those interviewed had no health insurance.

In addition to facing health problems and lack of services, many of these youths are alone for the first time after several years of group living. They experienced extreme fear of living on their own, complained of loneliness, and often lacked emotional support. Many had experienced homelessness because they could not find or afford housing.

Texas' foster care youths experienced low educational attainment and thus, had a history of unemployment and financial instability. Further, many of them left the foster care system lacking job skills. Sixty percent of those interviewed by the project were unemployed and were financially unstable.

In order to cope with the lack of support from family, many of these disconnected youth employ coping strategies to deal with the challenges they face. Some of these challenges are self-sabotaging and dysfunctional. They include:

- Removing themselves from available help. Almost half of the people the Project interviewed had left care before the age of 18.

- Engaging in risky lifestyles. Most of the youths engage in behavior such as drug abuse, early parenting, dropping out of school, and criminal involvement or victimization. The interviews revealed that one in five foster youth had been arrested at least once, one in five reported having been the victim of a crime, and one in five reported a history of substance abuse.

- Returning to birth families. Many of these transitioning youth attempt to reconnect with their birth families. Some families may have received help and are now in a position to help their children, but many are still not in a position to help or be a positive influence to their children. Eighty percent of the youth interviewed by the

Project had been in contact with their birth family since leaving care. While this reconnection may be helpful for some, it can have a negative outcome for others.

- Learning to get by, but not get ahead. Transitioning youth learn to live from day to day and often are unable to develop long-range goals and career strategies.

Texas Efforts on Transitioning Youth

Chafee [51]

Since the CPPP Project, Texas has implemented the Chafee Foster Care Independence Program (hereinafter "Chafee"). DFPS provides Chafee services through its Preparation for Adult Living (PAL) program. Texas partners with public and private organizations and other external stakeholders in efforts toward helping youth in foster care transition to adult living. Chafee has responded to some of the issues on which the Project reported.

The State has designed and implemented its program to meet Chafee's goals by:

- Helping youth make the transition to self-sufficiency by developing services and partnerships that improve outcomes for youth exiting foster care for adult living;

- Help youth receive the education, training and services necessary to obtain employment by assuring that youth ages 16 and older have opportunities to obtain job training and meaningful employment;

- Help youth prepare for and enter postsecondary training and educational institutions by assuring that youth are provided opportunities to participate in post secondary training and education;

- Provide personal and emotional support to youth through mentors and the promotion of interactions with dedicated adults by promoting the development of a support system for each youth who exits foster care for adult living; and

- Provide financial, housing, counseling, employment, education and other appropriate support and services to former foster care recipients between 18 and 21 years of age by promoting the development of responsive, effective aftercare services for youth ages 18 to 21.

The only information and data available regarding the effectiveness of Chafee are provided by DFPS. The agency's 2002-03 progress reported the following:

- PAL served 4,818 youth ages 14 through 20 in FY2002.

- PAL life skills training in job skills, money management, housing/transportation, personal/interpersonal skills, health, and planning for the future were provided to 1,423 youth ages 16 through 19 in FY 2002, as reported by regional PAL staff. Youth in rural areas often faced challenges in attending group life skills training. The PAL workbook was used with youth not able to attend group life skills classes.

- PAL Staff contacted 424 former youths age 18 and older 90 to 120 days after they exited foster care system and found that 176 (42%) of those youth were employed full time or part time.

- Regional PAL staff reported 302 youth received formal educational or vocational services with Chafee funding.

- Regional PAL staff reported that 428 youth in foster care received their high school diplomas and 57 youth received their GED certificates in academic year 2002-2003.

- In academic year, 2001-2002, the Texas Higher Education Coordinating Board reported that 637 person formerly in foster care used the legislative foster care college tuition waiver.

- PAL had formal mentor programs in 4 of the regions and all of the remaining regions either have informal mentoring programs or are beginning mentoring partnerships with community agencies or colleges. Texas used Chafee funding for a PAL/E-Mentoring initiative where 16 youth, in April 2003, in their first year of college or vocational training were matched with on-line mentors who served as career guides. By June 2003, 30 more youth were matched with on-line mentors.

- Regional PAL staff reported 601 young adults between the ages of 18 to 21 received aftercare room and board assistance in an effort to improve outcomes and to alleviate homelessness. Each of the 601 youth and an additional 100 youth received intensive case management services.

- 565 youth received transitional living allowances of up to $1,000 each and 429 youth received household supplies stipends of $300 each when they exited foster care for adult living.

- In FY 2002, 715 young adults ages 18 to 21 received Transitional Medicaid and a total of 1,122 clients have benefited from the program since September 2001.

Although, PAL has attempted to respond to the many issues that exiting youth face, much more remains to be accomplished. Services currently are not offered in all regions. Many youths in rural areas do not have access to PAL, and it does not reach those who leave foster care prior to turning 18.

Preparation for Adult Living (PAL)[52]

The Preparation for Adult Living (PAL) program was implemented in 1986 to ensure that older youth in substitute care are prepared for their inevitable departure from the Texas Department of Family and Protective Services' care and support. At any given time, there are about 3,500 youth 16 years of age and older in substitute care. PAL program staff strives to provide each of these youth with skills and resources they will need to be healthy, productive adults. PAL policy requires that youth 16 and older who are in substitute care receive services to prepare them for adult living. With funding availability, regions may serve any youth 14 or older on whom Child Protective Services has an open case.

There is no typical case for which PAL services are provided. Length of time in care ranges from one month to almost 14 years, with two to three years being the average. Many of the youth have endured emotional and psychological trauma, and most have few options for living arrangements once they are discharged from care. PAL, in collaboration with public and private organizations, assists youth in identifying and developing support systems and housing for when they leave care. PAL gives these youths skills and training, but most of all, PAL helps them realize that there are options. PAL offers the following services:

Independent Living Skills Assessment
PAL policy requires that staff or contractors conduct an initial assessment of each PAL participant's general readiness to live independently around the youth's 16th birthday. The results are used to develop specific plans and training to prepare each youth for adult living. A post-assessment is conducted between the youths 17th birthday and two months after discharge from substitute care. Beginning in September 2002, Texas is using the Ansell-Casey Life Skills Assessment.

Independent Living Skills Training
A foundation of the PAL program is the provision of training to assist youth in developing skills necessary to function as an adult. Some regions have staff that provides this training but most contract with individuals and private organizations to provide the training. In all cases, training must cover the following areas:

- Personal and Interpersonal Skills
- Job Skills
- Housing and Transportation
- Health
- Planning for the Future
- Money Management

Support Services
Support services are optional services provided based on need and availability of funding. Listed are examples of some support services provided as funding allows:

- Vocational Assessment and/or Training
- GED Classes
- Preparation for College Entrance Exams
- Driver Education
- High School Graduation Expenses (if not available from another source)
- Counseling
- Volunteer Mentoring to Provide Guidance and Support

Benefits/Financial Assistance
Youths who fully participate in the PAL program are eligible to receive a transitional living allowance once they leave care. The allowance may not exceed $1,000, and it may be distributed in increments not to exceed $500 per month. Young adults who are between 18 and 21 years old and have aged out of the foster care system at age 18 or older are eligible for aftercare room and board assistance. Financial assistance up to $500 per month may be used for rent, rent deposit, utilities, and food/groceries. There is a lifetime cap of $3,000 of accumulated payments per client. Case management is provided by community contractors or PAL staff while young adults receive financial assistance. Efforts are made to partner with local

housing authorities, workforce development boards, and other community resources to ensure that youth in need receive services to help them achieve successful outcomes.

Resources for Youth Leaving Care
The Texas Youth Hotline is a resource for youths who are under 21 years of age, including those who have aged out of the foster care system. Youth may contact the statewide hotline at 1-800-210-2278 for telephone counseling and information and referrals. The hotline can help young adults locate services available in their communities.

Tuition and Fee Waiver
Youths who are in DFPS substitute care on or after their 18th birthday, or who obtain their high school diploma or its equivalent while they are in foster or other residential care, may attend state supported vocational schools, colleges, and universities with tuition and fees waived. Youths who are adopted from foster care or who are eligible for adoption at age 14 or older may also be eligible for the waiver. This legislation was enacted in 1993, with revisions made in 1997.

PEAKS Camps
Two five-day experiential camps are held each year. The camps accommodate 40 youths each. The youth are accompanied by an adult, preferably their caseworker. Activities include ropes course activities, canoeing, expressive arts, swimming, nature hikes, skits, journal writing, etc. The camps are aimed at increasing self-esteem, improving communication and problem-solving skills, and having fun.

Statewide Teen Conference
Each year the Statewide Teen Conference is held on a college campus. Approximately 175 youths attend a three-day conference with workshops related to preparing for adulthood. The youths are accompanied by staff, preferably their caseworker.

College Weekend
Texas A&M University at Commerce holds a college weekend each spring. Approximately 70 youths who plan to attend college participate in two days of workshops related to attending college. Youths are offered individualized assistance filling out financial aid applications, etc.

Statewide Youth Leadership Committee (Youth Advisory Board)
The Statewide Youth Leadership Committee consists of one youth from each region. The committee addresses issues and formulates recommendations for improving services to children and youths in foster care. The group also reviews relevant policy as it is being developed.

Regional Activities

Several regions have regional Teen Conferences. If regional funding is available, other regional activities may include: wilderness trips, mentor programs, support groups, job development workshops, youth forums, etc.

Conclusion

Children leaving state care face the normal challenges all adolescents do when they become adults, but these challenges are compounded by their histories of abuse and neglect, little or no social and economic support structures, and their typically poorer health when compared to peers. These children already have been traumatized and disadvantaged through no fault of their own. In some cases, the care the state provided them following their removal was little better than what they received at home. In order to prevent their troubled pasts from becoming our future trouble, the state of Texas must dedicate itself to providing services that will allow these children to escape their histories and prepare for new lives as independent adults who are capable of making better choices than those of their parents.

VII. Psychotropic Drugs

A large and growing percentage of Texas children in community and foster care are being treated with psychotropic drugs. Psychotropic drugs act primarily on the central nervous system, and are used in the treatment of mental or neurological disorders,[53] such as depression, schizophrenia, attention deficit disorders, and seizures. Despite the ubiquity of the practice today, there are serious concerns about the efficacy and safety of psychotropic drug use on children. Recent Food and Drug Administration (FDA) actions included a decision to warn consumers that using psychotropic drugs on children carries the risk of serious side effects, such as suicidal ideation. Such warnings have raised serious concerns about the widespread use of psychotropic drugs on children in state care.

The Committee was able to obtain little reliable or conclusive data on the number of children in care who are receiving psychotropic drugs and which systems, if any, are in place to ensure that medications are properly prescribed, administered, and monitored. There has been almost no investigatory work specifically examining the use of psychotropic drugs on children in the Texas CPS system. Consequently, there are few ways to ascertain -- apart from anecdotal evidence -- whether children under CPS care are being properly diagnosed and medicated. Additionally, few institutional safeguards are in place to ensure that children in state care are not improperly medicated, and little has been done to protect the state against potentially fraudulent practices where the prescription and dispensation of psychotropic drugs are concerned. Because the healthcare costs of all children taken into state care are borne by the Medicaid system, taxpayers have a compelling interest in ensuring that the use of medications is both safe and warranted. The lack of data that specifically addresses the unique situations of children in state care hampers the policymaking process, and calls for a thorough review of current practices where the use of psychotropic drugs is concerned.

The following information consists of federal reviews, testimony received by this Committee, the investigation conducted by Office of the Inspector General, and reviews completed by HHSC.

Federal Review

After an initial report on studies of paroxetine (Paxil) that "appeared to suggest" an increased risk of suicidal thoughts and actions in children who were given Paxil compared to those who received a placebo, the FDA reviewed the results of antidepressant studies in children since June 2003. Later studies of other drugs "supported the possibility of an increased risk of suicidal thoughts and actions in children taking these drugs," but study results were far from conclusive. To better understand the risks involved, the FDA engaged Columbia University suicide experts to review these reports.[54] The Columbia University researchers presented their findings from a study they conducted on reported suicidal behaviors in children using antidepressants. The review found inconsistent results. While some data suggested an increased risk of suicide for children taking some of the drugs, the results of the study were neither definitive nor uniform. The FDA subsequently passed along this information to two internal bodies for further review and analysis.[55]

After receiving the Columbia University study results, the FDA committees determined that the medications' labels should draw more attention to the need to monitor patients closely when antidepressant therapy is initiated. Based on this recommendation, the FDA asked drug manufacturers to change the labels of ten drugs to include stronger cautionary statements and warnings to monitor patients for worsening depression and the emergence of suicidal ideation

or behavior, whether such worsening represents an adverse effect of the drug or failure of the drug to prevent such worsening.[56] The ten antidepressants included:

- Bupropion (Wellbutrin®)
- Citalopram (Celexa®)
- Fluoxetine (Prozac®)
- Fluvoxamine (Luvox®)
- Paroxetine (Paxil®)
- Sertraline (Zoloft®)
- Nefazodone (Serzone®)
- Venlafaxine (Effexor®)
- Escitalopram (Lexapro®)
- Mirtazapine (Remeron®) [57]

In summary, the members of the advisory committees

- Endorsed FDA's approach to classifying and analyzing the suicidal events and behaviors observed in controlled clinical trials and expressed their view that the new analyses increased their confidence in the results;
- Concluded that the finding of an increased risk of suicide in pediatric patients applied to all the drugs studied (Prozac, Zoloft, Remeron, Paxil, Effexor, Celexa Wellbutrin, Luvox and Serzone) in controlled clinical trials;
- Recommended that any warning related to an increased risk of suicide in pediatric patients should be applied to all antidepressant drugs, including those that have not been studied in controlled clinical trials in pediatric patients, since the available data are not adequate to exclude any single medication from an increased risk;
- Reached a split decision regarding recommending a "black-box" warning related to an increased risk for suicide in pediatric patients for all antidepressant drugs;
- Endorsed a patient information sheet ("Medication Guide") for this class of drugs to be provided to the patient or their caregiver with every prescription;
- Recommended that the products not be contraindicated in this country because the Committees thought access to these therapies was important for those who could benefit; and
- Recommended that the results of controlled pediatric trials of depression be included in the labeling for antidepressant drugs. [58]

State Review[59]

The Texas Health and Human Services Commission (HHSC) requested that ACS-Heritage conduct an analysis of psychotropic drug use of non-managed care Medicaid patients under the age of 18. ACS-Heritage reviewed the prescription of stimulants, antidepressants, and antipsychotics. The findings revealed:

- Stimulants are the most utilized psychotropic agents among patients under the age of 18.

- Approximately 23,183 patients received a claim for an antidepressant agent. Of these, nearly 73% of the claims were for an agent referenced in the March 2004 warning letter issued by the FDA.

- Data analysis showed that 19,403 patients received a claim for an antipsychotic agent. Of these, nearly 98% of the claims were for an atypical antipsychotic, which have not been approved by the FDA for children under the age of 18.

- Approximately 19,365 or 31% of the patients identified has two or more of the three drugs selected.

- Twenty-eight percent (28%) or 12,168 of patients receiving antipsychotics do not appear to have a proper diagnosis warranting their use.

- Fifty-two (52%) percent or 12,168 of patients receiving antipsychotics do not appear to have a proper diagnosis warranting their use.

- Analysis revealed that 52% of antipsychotics, 14% of stimulants, and 10% of antidepressants were potentially administered inappropriately.

Although the ACS-Heritage analysis was based on Medicaid claims and not actual patient records, reviewers of the study nevertheless expressed concern regarding the large number of children under the age of 18 who are on psychotropic drugs. The negative or long-term side effects of these drugs on developing children are not fully known, but some adverse effects have been documented, including addiction, growth suppression and suicidal thoughts or actions. Additionally, most of the drugs prescribed to children in the ACS-Heritage study have never been tested on children or received specific approval for use on children.

In summary, the ACS-Heritage report revealed disturbing data, but it was not designed to explain the results of its own inquiry. Ultimately, the report highlighted the urgent need for better information about the use of psychotropic drugs on children in state care.

Department of Family and Protective Services (DFPS) Advisory Committee[60]

The Department of Family and Protective Services (DFPS) Advisory Committee on Psychotropic Medications was established by DFPS and HHSC in March 2004 to research the use of psychotropic medications on foster children. In carrying out its responsibilities, the advisory committee was to:

- Define the medications which are considered to be psychotropic medication;

- Develop a list of psychotropic medications approved for use by foster children;

- Establish protocols and limits on the use of these medications; and

- Determine the best method to monitor the use of these medications by foster children.

The advisory committee found that DFPS should establish and maintain a best practice model

for the use of psychotropic drugs on youth in the care of DFPS. The advisory committee also put forward the following principles:

1. DFPS is the managing conservator for all children in the state's custody and therefore, it is responsible for making decisions relating to the care and treatment of those children to include the use of psychotropic drugs. In its capacity as conservator, DFPS may delegate its authority to other staff or caregivers and is responsible for informing the courts about the care and treatment of these children.

2. Psychotropic medications should be used in conjunction with other comprehensive treatment intervention to serve as a part of the child's total treatment plan.

3. A baseline assessment of a child should be made by a qualified professional prior to the child receiving psychotropic drugs. The use of the psychotropic drugs should be based on the assessment and supported by a treatment plan and must be consistent with that child's diagnosis.

4. Children should actively participate in managing their own care to include taking psychotropic drugs. They should also receive information regarding the use, purpose, side effects, and other relevant information of the drug prescribed. The information given to the children should be appropriate for their age and developmental level.

5. If possible and appropriate, the child's family should have input in decisions related to the child's treatment including the use of psychotropic medications.

6. Foster parents and residential caregivers should be active participants in decisions and discussions surrounding the use of psychotropic drugs.

7. Residential and foster care providers should delineate their policies and procedures regarding the use of psychotropic and emergency drugs in their treatment program to include practices related to the use and integration of psychotropic medication and other treatment methods.

8. DFPS policy and practice should include ways for foster children, parents, caregivers, caseworkers and other advocates involved to express each of their views regarding what is best for the child when it comes to psychotropic medications.

The committee also provided recommendations for protocol and monitoring systems as follows:

- Establish an effective consultation and monitoring system for the use of psychotropic medications by foster children;

- Improve the training system to be competency-based with expanded training topics and participants; and

- Address the issue of informed consent.

Additional recommendations included providing funding to conduct a study examining the current trends in prescribing psychotropic medications to foster care children, the development and use of a medical passport, and a DFPS-initiated public and private work group to design

and implement a better competency-based training program for practitioners.

Testimony Regarding Informed Consent

In his comments regarding the final report, Advisory Committee member Richard LaVallo, a child advocate attorney with Advocacy, Inc., voiced his disapproval of some elements. In line with other child welfare advocates, Mr. LaVallo was concerned about inadequate, confusing, or absent legal provisions for providing informed consent before children are given psychotropic drugs.

Mr. LaVallo stated that the Advisory Committee should determine who should provide informed consent when psychotropic medications are to be administered to foster children. He further stated that, although DFPS has a managing conservatorship that gives it the power to give consent to medical procedures on the behalf of a child in care, it is not clear now whether this power can be delegated to foster parents or other care providers under the existing rule on Medical and Dental Services for Children in Substitute Care, 19 Tex. Admin. Code § 700.1351. He raised the following questions regarding this area of legal uncertainty:

- Under what circumstances should this decision making authority be retained by the child's caseworker or delegated to a foster parent or other care provider?

- If a child is placed in a residential treatment center, would it ever be appropriate for the facility to be able to consent to medications for the child?

- If a child's caseworker retains the right to consent to medication, would the legal requirements for informed consent be satisfied by having the caseworker sign a consent form without attending the doctor's appointment in which decisions are made about medications?

Mr. LaVallo testified that persons authorized to give consent for the use of psychotropic drugs on behalf of foster children should receive information about the drugs and their risks and benefits in simple language. He discussed which information should be covered in the informed consent process, including descriptions of the child's condition and symptoms; side effects of the medication; the name of the medication; how the medication will help the child; the recommended dosage; and how the child should be monitored while on the medication. Mr. LaVallo also testified that he believes that informed consent should be given by foster children themselves once they reach age 16, if otherwise competent, recommending that the youth in this age group should actively participate in the decision making process regarding psychotropic drugs. Discussing barriers to providing informed consent, Mr. LaVallo noted that it can not be properly given if the child's medical records do not follow the child to each placement. A doctor can not knowledgeably prescribe, nor can a foster parent or other care provider give informed consent, when they do not have access to the child's past medical history.

Aside from his concern regarding informed consent, Mr. LaVallo believes that the credibility of the report is severely compromised by the Advisory Committee's failure to define the nature and extent of the problems associated with the administration of psychotropic medications in the foster care system.

Conclusion

The use of psychotropic drugs on children is controversial, and more data is needed to make meaningful decisions on policy in this area. The information presented to the Committee is alarming: the number of children in state care who are on psychotropic drugs seems to be especially high, relative to the rest of the population. These are children who have no advocates to make balanced decisions on their behalf, apart from caseworkers who are already overburdened with high caseloads that disallow time to give meaningful informed consent. Further study is necessary to determine whether existing policies and procedures are adequately protecting children in care from unnecessary and potentially harmful medication, especially in light of insufficient knowledge about long-term effects. Finally, testimony before the Committee revealed that other forms of mental health care, specifically counseling and psychotherapeutic treatment, seem to be inadequately provided to many children in care. All testimony from mental health practitioners indicated that these services are necessary for proper mental health care, even when medication also is required. However, it appears that many children in state care receive nothing but medication, which does not meet the standard of care for most mental illness, according to witnesses who testified at our hearings.

VIII. Privatization in Child Welfare Reform

The privatization of some child welfare services is a viable option for the state of Texas to consider as it institutes systemic CPS reforms. Several states have experimented with privatization to a greater or lesser extent. Kansas is a notable example.

Following legal action by the Child's Rights Project of the ACLU, the Kansas court's consent decree required the state to improve its child welfare system. Privatization was favored as the means to the mandated end because much of the state's leadership had lost confidence in the Department of Social and Rehabilitative Services (SRS). The Kansas agency was facing problems similar to those confronting CPS in Texas, including high caseloads and staff turnover rates; negative publicity stemming from the media's focus on poorly handled abuse and neglect cases; varying service levels in different parts of the state; and an increasing number of children entering the system annually.

Kansas began its child welfare services privatization effort in 1996 and completed the process in 1997. It was called the fastest, largest, and most comprehensive overhaul of a child welfare agency ever undertaken in the United States. Reforms were implemented in the following manner:

- Kansas' SRS was consolidated into five regions from 12 area offices;
- Using RFPs and service contracts, SRS secured one accredited lead agency to manage family preservation and foster care/reintegration services in each region, while hiring one accredited agency to manage all adoption services for the entire state;
- SRS continued to run all child protective services investigations, monitor contracted agency activities, and make recommendations to the courts regarding the disposition of children;
- SRS's workforce was reduced by one-half through retirement, attrition, and reassignment;
- The state developed financial incentives to encourage the placement of children in permanent homes (e.g. capitated case rates with staggered payments for achieved benchmarks in placement; payments for children with serious emotional difficulties; and monthly case rates to cover adjustments in case load size and allowable fixed costs);
- Kansas secured a Title IV-B waiver from the federal government to create more flexibility in its child welfare financing system;
- The state secured a third party evaluation of its privatization;
- Kansas engaged all state agencies to develop an integrated care approach to improve child welfare outcomes (i.e. the state gathered the resources of all agencies involved with child welfare, such as juvenile justice, education, mental health services, and the courts.)

Kansas has reported the following results in the wake of its privatization efforts:

- A 24-hour, "no rejection" service system was developed to track the status and location of each child in care at all times;

- Children receive services within 4 hours of referral;

- Ninety-five percent of children leaving foster care are safe 12 months after returning home;

- Out of home placements average 13 months (national average: 24 months);

- Eighty-six percent of children were placed either with a relative or a family foster home;

- After-care is available to all children for 12 months;

- Caseloads were reduced from 50 to 20 clients, bringing the caseloads within national accreditation standards;

- Intake and recidivism were reported at lower rates, while lengths of stays in foster care, residential treatment centers, and hospitals were shorter;

- Adoptions and kinship placements were increased;

- More children were placed in care within their counties of origin; more sibling groups were placed together; and there was better access to services for children who had experienced trauma prior to removal;

- The state developed a program for older youths who aged out of the foster care system;

The Kansas experience taught the state the following lessons:

- Broad stakeholder involvement is essential to ensure trust in the reform process that leads to a new system. Kansas initially failed to involve the judiciary, foster parents, and school systems in the planning and development processes. This oversight reduced stakeholder confidence in the process and final product;

- If family reunification is the goal, agencies working with children must be allowed to work with the families as well, in order to provide overall case management;

- Organizational capacity building requires sufficient time when privatizing services. In Kansas, some agencies were given insufficient time to increase their sizes by three to four times. (Key essential areas for capacity building include coordination of IT systems, developing contracting and financial management systems, managing human resources, property and facilities procurement and management, etc.);

- More than 30 other states have experience with public-private partnerships. Consultation with them is a valuable process that can help a state to avoid the costly mistakes of others while identifying successful, proven strategies;

- Incentive-based contracting can yield positive results;

- Liability concerns are significant for private partners. The state must acknowledge the benefits and dangers of tort claims protections and liabilities, paying attention to a balance between protection of children in care and the creation of an environment conducive to private party participation in the child welfare system;

- Training for all individuals involved in child welfare is an essential component of a successful system. System-wide reform generates an even greater need for new, up-to-date training.

- Trauma sensitive services are key in the child welfare system, because most children in the system have experienced trauma(s) prior to their removal. Even a removal that is considered beneficial in the long-term is traumatic for the child in the short-term. All services must be designed to provide timely interventions, service deliveries, and a continuity of services such as physical and mental health care and education with the goal of addressing trauma as the norm.

However, the Kansas experience has not received praise from all corners. Initially, the restructuring of the system was considered chaotic by some critics, and there was confusion as the system made became a public-private hybrid. The following problems have been identified following reform:

- Cost miscalculations led some contracted providers to experience large cost overruns that could jeopardize their financial solvency and lead them to break contracts;

- Some private agencies experienced difficulty recruiting qualified staff, as well as high turnover rates similar to those suffered by the SRS;

- Court systems found the new diffusion of responsibilities for children confusing, and they were, in certain cases, unable to determine who was directly responsible for children in care;

- Insufficient reimbursements by private agencies to mental health care providers resulted in little or no mental health care for some children in need;

- Some community-based services networks were severely compromised during the transition to a privatized system. After years of successful partnerships with the public system, some providers ended relationships as a result of privatization, resulting in service gaps;

- Kansas still lacks sufficient foster and adoptive homes; 700 children are waiting for placement;

- Despite establishing programs for youth aging out of foster care and transitioning to adulthood, there are insufficient community networks in place to facilitate transitions. The situation is especially dire for children with special needs, for whom programs are nearly non-existent;

- The state's budget cuts to family preservation programs have increased the pool of children likely to enter the foster care system, which is significantly more expensive program to run. The increase in children taken into foster care may strain the existing capacity of private service providers and overwhelm them financially. The effect could be an overwhelmed private network with no state system to bridge the gap as capacity is increased.

The Kansas child welfare system reforms were borne out of necessity following the intervention of a court. The results of the privatization effort have been studied by many throughout the United States because the effort was the most extensive and far-reaching yet attempted in a state child welfare system. While Kansas' privatization efforts were an extreme, the mixed results they yielded were also found in other less drastic approaches.

Privatization Is No Cure-All

Should Texas decide to utilize public-private partnerships to improve CPS performance, policymakers are advised that the approach is considered effective in some, but not all areas of child welfare and protection services, and there are serious pitfalls and unrealistic expectations to be avoided.

Children's Rights, a non-profit advocacy organization, studied privatization efforts in six states: Florida, Kansas, Maine, Michigan, Missouri, and Ohio. Despite a variety of approaches employed by these jurisdictions, the study uncovered findings common to all systems, such as:

- Cost savings cannot be expected when child welfare services are privatized;
- Greater efficiency is rarely achieved through privatization;
- Success in privatization depends on setting a few, simple outcomes and performance targets;
- Strong, high-level leadership is key to ensuring privatization efforts are developed and sustained.

The Potential for Privatization in CPS

The Committee did not hear extensive testimony regarding privatization of CPS functions during the Interim apart from those related to foster care and adoption services. Texas currently utilizes a public-private approach in this area. Proponents of further privatization have argued that the current foster care system is a duplicative effort, because CPS and private child placing agencies both perform the same functions in the state. This "dual system" has been criticized by the Comptroller's report on the state of Texas' foster care system ("Forgotten Children"), and was also the subject of extensive study and hearings before the Select Interim Committee on Child Welfare and Foster Care by State Representative Suzanna Hupp. This report does not cover the details of this current public-private partnership, and recommends referring to "Forgotten Children" and the Interim Committee Report of the Select Interim Committee on Child Welfare and Foster Care for more background on this issue.

Advocates for ending the dual system in favor of handing over all foster care duties to private partners cite better outcomes for children; the use of agencies with more experience in child

placement; increased efficiency and cost savings; and reliance upon agencies with strong, existing community networks as principle reasons for removing foster care from CPS entirely, and placing it in private hands. Opponents have voiced concerns over a complete turnover of child placement duties to private agencies based on poor performance by private agencies under state contract that were charged with welfare duties in the past; lack of sufficient regulation and oversight to ensure child safety in large and diverse private network; no demonstrated link between privatization and cost savings and/or efficiency; and concerns over the ability of a totally privatized system to adequately address areas of the state without strong child placing networks already in place.

> *"This is not about transportation or trash collection, but children and their families' lives. The public will always be held accountable for these services, no matter who is delivering them."*
>
> Sarah Gerstenzang, co-author of *Privatization of Child Welfare Services: Challenges and Successes*

Conclusion

Privatization strategies have the potential to benefit the state if expectations and plans are realistic; there are clear benefits over the public sector; oversight is stringent; and privatization is confined to areas in which the public policy goals of the state are not compromised by the use of private partners. Certain services may be best carried out by private partners, such as child placement. Other functions rest firmly in the hands of the state, such as investigative functions carried out by CPS. Careful, controlled use of private partners can yield beneficial results, but the state must be prepared to increase spending on regulation of private partners, and demand high levels of accountability.

IX. Legal Actions against States that Fail to Protect Children

The benefits of effective child protection programs are realized in lives preserved and money saved. The Legislature should not overlook an additional benefit: a well-designed, adequately funded, and functional child protective services program could reduce the threat of civil and criminal legal actions against the state for failure to protect children in care.

Numerous states and municipalities have been sued for failure to protect children in the care of child protective services. Alabama, Florida, Kansas, Kentucky, New Mexico, Tennessee, Washington, Wisconsin, Philadelphia, New York City, and Washington D.C. were all targeted by child welfare advocates who believed litigation against the agencies was the only means to instigate fundamental reform of child protective services.

Recent events highlight how dissatisfaction with CPS performance have already spawned legal action against CPS in Texas. In Hidalgo County, TDFPS was indicted on June 30, 2004 on three criminal felony charges for failing to protect three adolescent girls — ages 12, 13, and 14 — from sexual abuse by their stepfather and mother. The charges were later dropped, however it is reasonable to expect that similar future actions could be brought against the agency if meaningful, systemic reforms do not yield improvements in child safety soon. Recent legislative hearings, agency investigations, and government reports have made the Legislature well aware of CPS' extensive problems. The state is effectively on notice. Failure to adequately address the need for improvements following considerable public scrutiny heightens the legal threats facing Texas.

Children's Rights, a prominent advocacy organization devoted to the use of legal action against governments to force change in child protective agencies, describes its strategy in the following way:

> *Any concrete plan of action for reform must be grounded in the needs of children and families and involve the people who know best how to fix systems within a particular city or state. Children's Rights lawyers work to persuade key individuals in a community's child welfare system -- community leaders, child welfare administrators, frontline workers, foster parents, children's advocates and political players -- to recognize their common goals and work together in a non-adversarial fashion. With the possibility of litigation squarely on the table or preliminary court orders in place, child welfare administrators, politicians and other players in the community are forced to ask themselves whether they want the same goals for children in the system -- a safe environment, a nurturing and permanent home, and reliable services. Our experience shows us that the parties will often choose to work together towards the goals they seek -- particularly once it is clear that in the absence of voluntary cooperation the court will be asked to intervene.*
>
> *When the threat of litigation is not enough to force change, Children's Rights uses the courts and its array of legal tools and outcomes -- including class action lawsuits, consent*
>
> *decrees, remedial court orders or court-appointed receivership -- to speed reform or ensure adherence to previously negotiated agreements. One round of court activity is rarely enough. Often, Children's Rights must return several times to*

make sure that the promise of change is matched with practice. Twelve state and local governments have been the subject of lawsuits brought by Children's Rights, and by the Children's Rights Project of the ACLU that was our predecessor.

Three Lawsuits; Three Warnings to Texas

Tennessee: Brian A. v. Sundquist

For years, the Tennessee Department of Children's Services (DCS) routinely housed children in emergency shelters and other temporary holding facilities for upwards of six months because the state had nowhere else to put them. Children in the system were also bounced through many inappropriate foster placements and, though the children stayed in state custody for extended periods, DCS made little effort to provide them with an education, return them to their parents, or place them for adoption.

In response to requests from local advocates to investigate DCS's systemic failings, Children's Rights partnered with attorneys across the state in May 2000 to file a suit on behalf of the over 9,000 children then in DCS custody. Intense negotiations produced a settlement agreement in August 2001. The agreement, which is fully enforceable in court, imposes sweeping reforms on Tennessee 's child welfare system. Since the August 2001 settlement, Children's Rights has been actively monitoring DCS's compliance with the terms of the *Brian A.* settlement.

In November 2003, after reviewing the Independent Monitor's reports detailing DCS's failures to comply with most of the settlement's provisions, Children's Rights filed a motion in federal court asking Judge Todd Campbell to find state officials in contempt of court and to order immediate compliance with the terms of the settlement. The motion also asked the Court to appoint an independent special administrator with the authority to develop and implement a plan to ensure Tennessee makes the many specific reforms called for by the settlement or, in the alternative, for an order requiring DCS to itself develop and implement such a plan.

On December 29, 2003 , plaintiffs reached a Court-approved stipulation with the state resolving the contempt motion. In accordance with the stipulation, DCS has worked with Children's Rights attorneys and a technical assistance committee (or TAC) composed of five national child welfare experts to develop a comprehensive and detailed "implementation plan," a court-enforceable blueprint for carrying out the core reforms called for in the settlement. The result has been DCS's "Path to Excellence" Implementation Plan, which was formally approved by the TAC and the Court in August 2004. The plan identifies the concrete steps (*i.e.*, who is responsible for doing what, when) that DCS will take to come into compliance with the Settlement Agreement. Plaintiffs are continuing to monitor DCS's performance under both the Settlement Agreement and the implementation plan.[61]

Florida: Bonnie L. v. Bush

The state of Florida has over 15,000 foster children and its Department of Children and Families (DCF) has no place for many of them. By 2000, approximately 20% of Florida 's foster homes were operating over their licensed capacity and, as a result, children removed from their families were often placed for long periods in overcrowded, "temporary" holding facilities without necessary treatment. DCF was also known to rent motel rooms to serve as housing for foster children.

In August 2000, Children's Rights joined local Florida advocates in a lawsuit against DCF. Before the case made it to trial, however, the district court dismissed most of the Plaintiffs' claims. An appeal of the dismissal was affirmed by the 11th Circuit Court of Appeals, and the U.S. Supreme Court denied the petition to review the decision in 2003.

Despite legal roadblocks faced thus far, Children's Rights and its Florida allies have called national attention to Florida 's ailing child welfare system. Children's Rights also succeeded in pressuring DCF to emphasize non-discriminatory policies and to respect the privacy of Plaintiffs' medical records. Though the Bonnie L. litigation is now over, Children's Rights is considering other types of legal action, including state court litigation and differently focused federal court litigation, aimed at protecting Florida 's foster children.[62]

Kansas: Sheila A., et. al. v. Joan Finney, et. al.:

In 1990, a lawsuit was filed charging that the Department of Social and Rehabilitative Services (SRS) was not adequately caring for children placed in its care or at-risk of abuse or neglect. *Sheila A., et. al. v. Joan Finney, et. al.* originally was filed in January 1989 in Shawnee County District Court by Rene Netherton, a local attorney seeking additional foster care beds for Shawnee County children. In February 1990, the Children's Rights Project of the American Civil Liberties Union filed an amended petition and joined Ms. Netherton in a class action lawsuit. The class action lawsuit contended the Department didn't comply with State and federal law, and was violating the constitutional rights of Kansas children.

The Department and the ACLU ultimately reached an out-of-court settlement, which the court approved in June 1993. That settlement agreement is a 33-page document containing 153 requirements the Department had to adhere to by certain deadlines. Each requirement, or "element," was considered to bean important component of an adequate foster care system, and was included to ensure that the needs of foster children in Kansas were being met. As of July 1995, Children's Rights, Inc., which is no longer affiliated with the ACLU, began to represent the plaintiff class in the Kansas lawsuit.

The results of the Kansas suit led to the privatization efforts discussed in the section entitled "Privatization in Child Protective Services."

Conclusion

Children's Rights (and its predecessor organization, the Children's Rights Project of the ACLU) has successfully sued multiple agencies in multiple jurisdictions throughout the nation. The size of Texas' child protective services agency and the scale of its problems make the state a potential target. Experts disagree on whether or not such suits have brought about positive changes or if they are more of a distraction and impediment to meaningful change. One point is clear: legislators and policy makers lose considerable latitude in decision making when courts take over the reform process and mandate change through their orders. The danger that Texas could lose control of CPS reform through law suits and court orders is real.

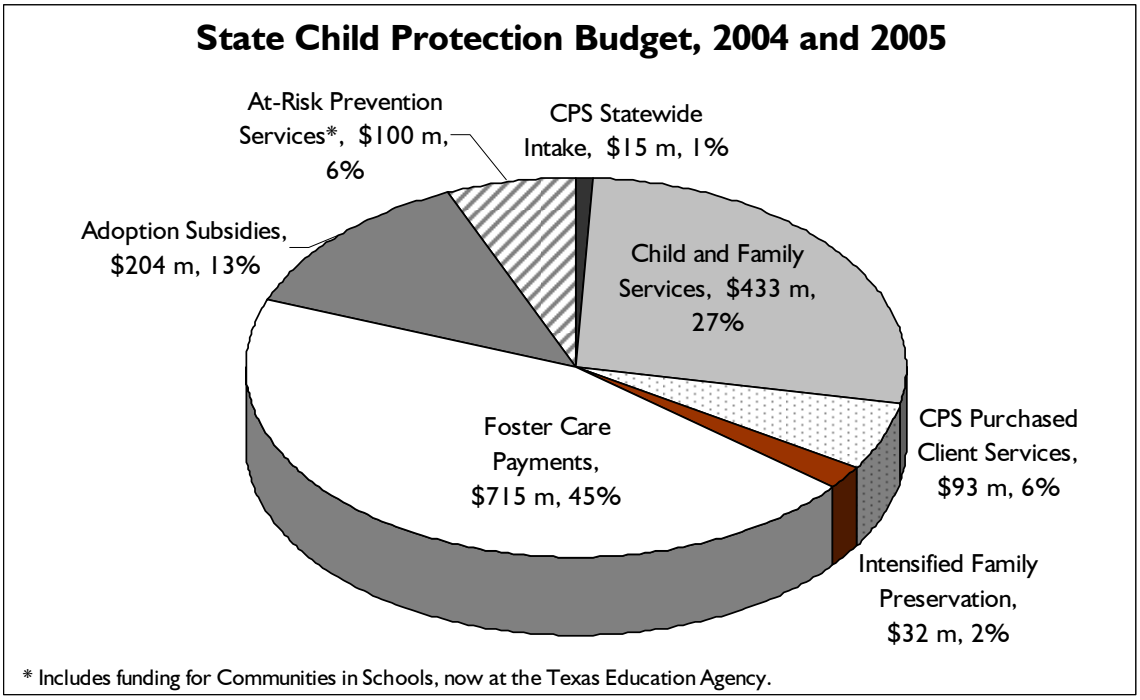
X. Funding for Child Protective Services

Spending on Child Protection in Texas

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.[63] This is 60 percent lower than the U.S. average of $277 per child—ranking Texas at 48th nationally. 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.[64]

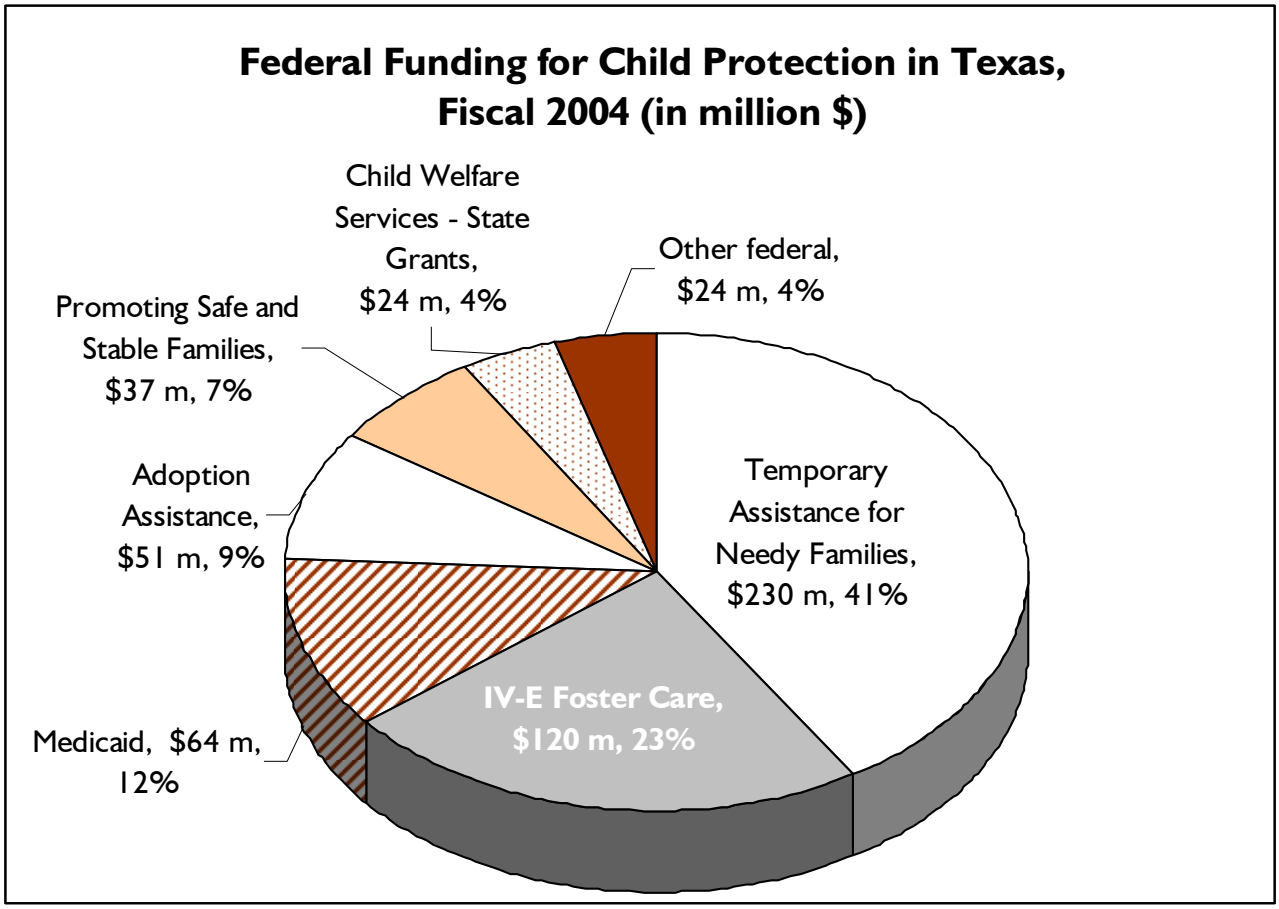
Child welfare programs in the United States are funded by a combination of federal, state, and local funds. A survey of state child welfare agencies throughout the nation indicated that federal funds account for less that half (42%) of state child welfare expenditures, with the remainder supported by state funds (49%) and local funds (9%).[65] In contrast to the national averages, Texas receives approximately 67% of child protection spending from federal sources.[66]

Texas' spending on child protection strategies is detailed in the graph below.



SOURCES: H.B. 1, General Appropriations Act, Regular Session of the 2003 Legislature; Fiscal 2004 Operating Budget for Department of Family and Protective Services.

Federal funds compose the lion's share of child protection funding in Texas. Their use is reflected in the chart below.



SOURCE: Fiscal 2004 Operating Budget for Department of Family and Protective Services.

A policy brief submitted to the Committee by the Center for Public Policy Priorities outlined the use federal funds for child protection in the sections below.

Temporary Assistance for Needy Families

In 2004, federal TANF dollars were 30 percent of the agency's total budget for child protection, including administration. Total federal TANF funding for CPS is budgeted at $230 million in 2004; all other federal funding totals $328 million.

Legislators drafting the 2004-05 state budget received requests for increased TANF federal funds not just from DFPS, 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.[67] 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.[68]

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.[69]

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."[70] 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.

Federal Funding: Forthcoming Changes

TANF Reauthorization

The TANF program was to be reauthorized by Congress in 2002. The current reauthorization situation is covered within this report under Charge Four, wherein the Committee was charged to monitor reauthorization efforts as they relate to Texas' welfare reform efforts. As reported within the section pertaining to Charge Four, TANF reauthorization efforts have been stalled for two years. The program is currently extended in its current form until March 31, 2005. Therefore, no TANF-dependant changes affecting child care and welfare are likely to occur until the 109th Congress meets.

Despite the absence of reauthorization, proposals from both houses of Congress and the President highlight some possible forthcoming changes to the TANF program. Of particular note are proposals calling for higher work participation rates by TANF recipients, as well as increased child care funding.

H.B. 4856 and Block Grant Proposals for Foster Care Funding

The U.S. Congress is expected to revisit child welfare funding strategies in 2004 and 2005. Of particular concern to some lawmakers are federal funding strategies that appear to favor foster care placements for children rather than either reunification with their natural families or placement within a new adoptive home. Some proposals for new child welfare funding would follow a "block grant" model, allowing states to spend more flexibly on programs that result in permanent placements for children.

Current funding under Titles IV-E and IV-B of the Social Security Act result in a restricted amount of spending on services for children that result in permanent placement versus uncapped spending granted for services to children in foster care. This disparity is viewed by some as an incentive for states to keep children in foster care rather than to move them expeditiously into permanent placements.

In response, H.R. 4856 was introduced to the House on July 19, 2004. The bill incorporates a version of President Bush's foster care block grant proposal with some of the recommendations made by the Pew Commission on Children in Foster Care. Responses to the bill and similar proposals have been mixed. Child welfare experts point out that the new funding scheme outlined in H.R. 4856 would pose several problems for Texas:

- Block grant funding typically is based on historical levels of use. Historically, Texas' spending on child welfare services has been below the national average. New federal funding strategies could lock Texas into continued below-average funding for the duration of the block grant funding program, regardless of actual and changing levels of need. The result could be a funding system that discourages the state from boosting child welfare spending to adequate levels because federal assistance will be tied to the state's inadequate spending in the past.

- Texas has a high poverty rate, a young and fast-growing population, and one of the nation's highest immigration rates. These features contribute to a dynamic and changing social services need structure that may not be well served by a block grant funding program lacking special funding provisions for states with high poverty and rapid population growth.

- H.R. 4856 creates competition for funding between already weak prevention-based services and ongoing funding for administration, child placement activities, training, and services.

Loss of Medicaid Funding for Targeted Case Management

The federal Center for Medicaid and Medicare Services (CMS) issued a disallowance of targeted case management claims for services provided by CPS that assist target populations to access medical, social, educational and other services.[71] Services include case assessment and planning, service coordination or monitoring, and case plan reassessment. Under the CMS decision, these services are considered child welfare activities that are not covered by Medicaid funding. Texas has appealed this decision, but in the meantime, the HHSC Legislative Appropriations Request for 2005 does not include Medicaid funding for targeted case management, and it projects the end of that program in FY 2006. To compensate for the loss of these Medicaid funds in the upcoming budget, an estimated $28 million in General Revenues

may be required to maintain associated CPS staffing levels.[72]

Increased Federal Funding Unlikely

Texas has maximized the amount of money it can draw down from federal sources to fund state-run child welfare programs. Relative to other states in this region of the United States, Texas has done a comparatively good job of locating and collecting federal funds. Relative to other states, Texas finances its child welfare efforts with a higher proportion of federal funds. There are few additional federal funding sources to access without increasing the state's general revenue spending in order to secure matching funds.

The budget pressures that led to state cuts in CPS and APS budgets are mirrored by challenges at the federal level. The combination of tax cuts, wartime spending, and homeland security costs make boosts in federal funding to states for child welfare an unlikely proposition.

State and Local Government Spending

Despite signs of recovery in the Texas economy,[73] the fiscal policies of 78th session are expected to continue in the 79th Session, precluding any substantial budget increases for CPS. Continued resistance to increasing revenue through raising existing taxes or imposing new ones severely compromises the state's ability to boost general revenue spending to a level that would fund child protection efforts at the national average, as well as attract more federal matching funds.

Recently Requested State Budget Cuts

On June 16, 2004, the Legislative Budget Board and the Governor's Office of Budget, Planning, and Policy issued a memorandum calling for all state agencies to cut 5% from their baseline request for general revenue-related funds.[74] The DFPS Legislative Appropriations Request (LAR) for fiscal years 2006 and 2007 reflects these further cuts from the already minimal child abuse prevention and early intervention budget. In an effort to preserve the current level of services to children who are already victims of abuse and neglect, DFPS decided to cut funding to Services To At-Risk Youth (STAR), one of the few prevention programs continuing to function in all 254 Texas counties. According to the testimony before the Committee, DFPS Commissioner Thomas Chapmond stated that the proposed cuts to STAR will prevent the program from continuing in all Texas counties. In its 2006-2007 LAR, DFPS has requested a restoration of the 5% cut as an exceptional item in order to save the STAR program as it exists today but not at the hands of levels of last biennium.

Cigarette Tax Increase

During the 78th Session, several bills proposed increasing the cigarette tax, though none were successful. Under a variety of schemes, resulting revenues were to have been shared by state health and human services agencies, as well as funded smoking cessation efforts. An increase in the cigarette tax continues to provide one of the few viable options for raising revenues through taxation in order to fund child protection spending while also contributing to smoking cessation. Similar legislation will likely be introduced again during the 79th Session. A dollar per pack cigarette tax increase would raise an estimated $1.5 billion in revenue that could fund a number of additional human services endeavors that contribute to child welfare.

State Crime Victims Compensation Fund

Family and Protective Services has been accessing funds from the state Compensation of Victims of Crime (CVC) fund, drawing $62 million (about 9 percent of the total) for foster care payments and $3.4 million for Adult Protective Services in 2004-05. The Attorney General has advised that the CVC fund is diminishing rapidly because of the Legislature's decision to use funds for foster care and other services. The Legislative Budget Board has also warned that current spending of the CVC is unsustainable. The CVC is not, therefore, a reliable source of new future funding.[75]

Local Government Spending Used to Secure Federal Funds

Some local governments have increased access to federal matching funds by boosting their own spending. In 2002, Harris County Protective Services added $17.2 million to the $76 million spent by the state in Harris County on CPS. This generated an additional 18% more funding. Dallas County boosted salaries for its CPS workers and received federal funds as a result, leading to an increase in retention rates among employees in that region. However, many local governments in Texas do not have the latitude to increase local government spending, making this approach impossible for many parts of the state.

Conclusion

Child protective services funding comes from numerous sources within the federal, state, and local levels of government, as well as many private organizations dedicated to child welfare. Currently, Texas relies heavily on federal money for much of its child protective services funding, but increasing access to federal funds to match growing needs is impossible without increased general revenue spending by the state. Texas currently ranks near the bottom on spending for child protection. Without a change in this ranking, fundamental improvements in the state's ability to protect its children are dependent upon hope alone.

RECOMMENDATIONS

I. CPS System Review

A. General CPS Operations

1. The Committee recommends that the Legislature address the human resources crisis in Child Protective Services. A cursory review of CPS staffing levels over the past 10 years demonstrates that Texas is losing ground in providing frontline workers to deal with the growing problem of child abuse and neglect. Recent CPS caseworker increases still leave the state below the staffing levels of 1994. In addition to providing sufficient numbers of caseworkers, the ability to retain a competent and experienced staff is also key. CPS' current human resources situation is a revolving-door that discharges a constant stream of expertise and competence while continuing to take in new, inexperienced caseworkers that are incapable of recognizing risks or acting properly to protect their clients.

2. The Committee recommends, to the extent that emergency funding is available now, that the Legislature make an emergency appropriation to CPS to address its immediate need for caseworkers and lower caseloads. While CPS must avail itself of the opportunities to create efficiencies that are identified in this Report, as well as improve its accountability, these reforms cannot bridge the immediate gap between need and resources, especially where caseworker shortages are concerned.

3. The Committee recommends that the Legislature encourage HHSC to develop a ten year implementation plan that will bring CPS' average caseloads to the number recommended by the Child Welfare League of America.

4. The Committee recommends that the Legislature review policies and statutes that prohibit CPS from revising its hiring practices and providing the agency with more flexibility in human resources. Local CPS managers should be authorized to temporarily exceed state-imposed staff ceilings in anticipation of high turnover rates. Human resources administrators should monitor turnover, caseloads, and vacancy rates, and have the authority to address imbalances and critical staffing situations. Hiring practices within CPS should be revised to enable local offices to maintain authorized staffing levels in order to avoid overloads that negatively impact the quality of casework. The CPS central office should stand ready to authorize exceptional actions in response to situations that cannot be addressed at the local level through normal operating practices.

5. **The Committee recommends that the Legislature provide funding for increased administrative support staff.** Previous budget cuts depleted the ranks of support staff that provide valuable services to caseworkers, allowing the caseworkers to concentrate their time and attention on core activities related to child protection. A lack of such support staff reduces the ability of caseworkers to manage their high caseloads with efficiency and contributes to poor case management, data gathering, and recordkeeping.

B. The Court System

1. The Committee recommends that the extensions of the mandatory 12 month dismissal date for CPS cases should not be granted unless truly exceptional circumstances exist.

CPS, the Assistant District Attorneys, and the Court should all set the target for completion of CPS services at no more than nine months. If this requires that the service authorization-service initiation process be further expedited, the Committee recommends that be done. Requests from attorneys to extend the 12 month deadline should be carefully reviewed the courts.

2. The Committee recommends that attorneys be appointed for indigent parents to represent them during the initial removal proceedings. Under the current system, attorneys are not appointed to represent parents at the crucial, initial hearing when the court is considering whether to remove the children from the home and name CPS as the temporary managing conservator of the children. There will be a cost associated with this recommendation, but legal representation for parents in danger of losing their children is essential for the operation of a balanced system. Also, to the extent it might result in fewer removals, cost savings in *ad litem* fees would be realized by the elimination of subsequent hearings.

3. The Committee recommends that DFPS create special investigator positions within CPS and staff these positions with individuals who have a law enforcement background or training in law enforcement investigation techniques. Special investigators will assist CPS staff in case investigations, locating missing families and children, etc. Special investigators can help improve cooperation between CPS and law enforcement, and improve the quality of abuse and neglect investigations that could lead to prosecutions.

4. **The Committee recommends that the Legislature instruct judges and prosecutors to carefully consider the practice of routinely accepting a voluntary relinquishment of parental rights in cases where grounds exist for an involuntary termination.** Under some circumstances, the state should preserve its ability to terminate parental rights when there is a subsequent birth of a child to a parent who has previously lost parental rights involuntarily.

5. The Committee recommends that the Legislature consider legislation that would reduce the time for family reunification to six months for parents who have had repeated or numerous child removals and/or parental rights terminations; or who have failed to receive treatment for substance abuse/addiction; or who have given birth to a child born addicted to drugs. CPS is often faced parents who have made poor choices before, during, and after pregnancy, as well as with parents who have lost more than one child to CPS removals and terminations. Current public policy favors the provision of opportunities to these parents to obtain treatment for their substance abuse or other abusive behaviors in order to reunify them with their families. However, in some cases, CPS workers deal with the same parents repeatedly, with no signs of change or improvement. Absent good faith efforts demonstrated by parents and documented by caseworkers and other service providers, courts should have the discretion to limit the time for reunification in order to protect the child from likely repetitions of problematic parental behaviors.

6. The Committee recommends that the District Attorneys Office, in conjunction with CPS, should reinforce the principle that mere participation in services is not sufficient to justify reunification. The purpose of a Service Plan is to lay out a series of activities that create a process designed to produce desired outcomes. The focus should be the outcomes, not participation in the process. The final outcome should be observable and demonstrable changes -- indications that participation in the process has resulted in the ability to provide adequate care for children.

7. The Committee recommends that CPS refrain from returning children home before the Authorization To Place hearing is held, unless the Court has provided prior authorization to do so. Returning children to their homes under the guise of an “extended visit” undermines the court’s role and does not allow for other parties to properly participate in the decision-making process. CPS recently made it a local policy not to engage in extended visits that become reunifications prior to the ATP. This change in policy should be made agency-wide.

8. The Committee recommends that CPS Supervisors be released from the duty to attend every court hearing with their caseworkers. CPS Supervisors are rarely needed at hearings and should be able to use their time more wisely. Particularly complex cases or cases being handled by new caseworkers may warrant supervisor attendance, but these cases should be the exception rather than the rule.

9. The Committee recommends improvement in the quality of representation by attorneys *ad litem* for children in CPS cases by requiring attorneys *ad litem* to meet with their clients in the client's setting prior to the 14-day hearing and subsequent hearings, whenever possible. Attorneys *ad litem* should be held accountable for visiting and properly representing their children. Quality representation is impossible when attorneys have little or no contact with their clients prior to or following court dates.

10. The Committee recommends that the accountability of attorneys *ad litem* be ensured by requiring them to file a "statement of contacts" with their client prior to the 14 day hearing. Courts should develop a standardized format that assists attorneys *ad litem* to record and present information to the court regarding each child's case and the details of the attorney's visits with his or her client

11. The Committee recommends that attorneys *ad litem* be required to attend three hours of continuing legal education (CLE) each year if they are taking CPS cases. The training should focus on the duties of attorneys *ad litem*, CPS case procedures, and best practices for this type of legal work.

12. The Committee recommends that prosecution of bad faith reports of child abuse or neglect be explored. Although it is important to encourage legitimate reports and to make reporting easy, reports made in bad faith can be damaging to innocent parties, while wasting valuable resources. Visible prosecution of bad faith reporting may be a valuable deterrent to this practice.

13. The Committee recommends that the Legislature encourage the development of family drug courts in all Texas counties for all families in the CPS system, based on the existing court in El Paso. Counties should explore the possibility of using Court Improvement Project funds for this purpose, in addition to exploring the availability of federal and state matching funds for local dollars spent on these projects.

14. The Committee recommends that CPS close the legal loophole which allows it to open a "new" case on the same child or children, providing that a "new" event occurs. In some instances, children are allowed to remain in care if a "new" event happens to their case. For instance, if a child is brought into care from birth, the parents then have 1 year to 18 months to reunify with said child or to have their rights terminated. If in that time another child is born, a "new" case is opened and the time the first child spends in foster care exceeds the maximum allowed time of 18 months without a permanency plan.

15. The Committee recommends that counties provide urgently needed additional court and District Attorney resources, as well as court support staff. Each county should review its own situation pertaining to this issue and respond accordingly. Solutions are possible: In Bexar County, the Civil District Judges in Bexar County reallocated the workload in the civil courts to help relieve the congested abuse and neglect docket. Another associate judge was assigned to handle abuse and neglect cases full time, effectively splitting the existing docket in half.

C. Changing CPS Culture

1. **The Committee recommends that CPS should restate its values and expectations for its mission performance. These values should include openness, cooperation, accountability, and demonstrated effectiveness.** CPS' statement of values and expectations should be thoroughly discussed with current staff and made a part of the training curriculum for new employees. When instances of non-compliance are found to have occurred, it is recommended that management take immediate and decisive action to hold individuals fully accountable, throughout the hierarchy of the department from top to bottom.

The tendency of some to attempt to control all decisions and withhold information must be replaced by a culture of openness that invites opposing viewpoints, is open to different perspectives, and recognizes that the consequence of errors are far too great to do otherwise. The need for an open attitude applies to the legal cases as well. The legal system is predicated upon the tension between different viewpoints and opinions, with the best interest of the child as the focal point; all viewpoints need to be presented to the court in order to permit a well-informed decision.

2. The Committee recommends that CPS take strong and definite steps to repair its damaged relationships in the community. CPS must continue recent efforts to direct its focus on community integration, community partnerships, and responsiveness to the community. Opportunities for new and creative partnerships with the private childcare sector should be a priority.

3. The Committee recommends that CPS and the Child Welfare Board should continue their recent efforts to develop a mutually satisfactory and open working relationship. CPS should view the Board (as well as the Commissioner's Court and other county offices) as a resource and primary link to the community. CPS management should be proactive in its sharing of meaningful information with the Board, and should not be afraid to be forthright concerning its own shortcomings and successes. Local CPS staff should develop and foster the understanding that the Child Welfare Board is a resource that has a statutory responsibility related to the protection of children. The roles of each entity, while having independent characteristics, should be intertwined and mutually supportive.

D. Efficiencies And Management Practices

1. The Committee recommends that CPS develop caseworkers who are cross-trained to provide multiple CPS services on a given case and who can provide case management for parents and children when both are receiving services. The unnecessary assignment of multiple caseworkers to any one case creates inefficiencies and quality of service issues that should be avoided whenever possible. Current practice typically involves assigning at least two

caseworkers to a case (one for the children and another for the parents). This practice duplicates effort; requires multiple caseworkers and supervisors to attend the same court hearings and case staffings; complicates the coordination of child-parent visits; and requires the need for near-constant exchanges of case-related information between all parties.

Moving toward a the use of a single caseworker, where possible, would also help limit the number of transfers of a case from one caseworker to another, and from one Unit Supervisor to another. The loss of continuity that this practice creates generates inefficiencies due to the time it takes for newly assigned caseworkers and supervisors to become familiar with often voluminous case documentation, not to mention forming a relationship with their new clients. The current practice of assigning multiple caseworkers as a matter of course is costly and inefficient, and should be restricted according to necessity.

2. The Committee recommends that CPS explore more efficient case management by assigning entire CPS units to particular geographical areas. Some CPS units are already assigning caseworkers on a geographical basis within the unit. Assigning entire units to geographical areas can create efficiencies of time for the caseworkers, and make it easier for caseworkers within the unit to support one another in their jobs. These geographical unit assignments could also result in increased familiarity with specific local resources and the characteristics of each community.

3. The Committee recommends that all casework requirements imposed at the regional level be in step with state-wide requirements, and that any deviation be scrutinized by the central agency office to ensure that it has been approved by CPS management staff.

4. The Committee recommends that resources necessary to do proper casework should be made available to caseworkers immediately. Caseworkers should be able to make legitimate case-related expenditures with ease and without fear of non-repayment. The current pre-approval process used to set up service providers for children should be reassessed to focus on the ease of procuring services for children while remaining within reasonable limits of financial accountability.

5. The Committee recommends that CPS should review the current in-house method of obtaining shelter and foster home placement for a specific child. CPS should determine whether efficiencies could be gained by further centralizing this placement function.

6. The Committee recommends that CPS explore the possibility of creating a "traveling unit" of caseworkers who focus on making visits to children who are placed in rural areas or who have out of their home county. Such a unit could allow the originally assigned caseworker to carry on with managing his or her caseload more efficiently with fewer disruptions.

E. Service Quality Management

1. The Committee recommends that CPS investigative caseworkers receive higher compensation than ongoing caseworkers. CPS investigations are emotionally grueling, physically dangerous, and mentally challenging. DFPS should recognize the critical need to have experienced and tenured staff conducting these demanding Investigations, and create a significant pay differential that increases the desirability of these positions. DFPS should also investigate other methods of compensation that encourage retention among investigative

workers.

2. The Committee recommends that the District Attorney's Office and CPS management develop a mutual philosophy and common guidelines for evaluating cases. They should meet to review individual cases that can be brought by either agency for review and clarification. They should meet periodically to ensure that case directions reflect the principles of child protection, permanency, and prosecutorial discretion.

3. The Committee recommends the reevaluation of policies and practices motivated by the requirement that states use "reasonable efforts" to reunify families. Reasonable efforts to return a child to his or her home and provide a Service Plan are not warranted in all cases. Exceptions are clearly noted in federal and state statutes that require these reasonable efforts to be made. The State should recognize and apply these exceptions to reunification policy as warranted, especially in cases involving multiple, previous removals of children.

4. The Committee recommends that the DFPS Licensing Division review the unintended consequences of its recent requirement stating that children aged five and under shall not remain in an emergency shelter for longer than 15 days. This limit has forced young children to be moved from shelter to shelter, and forced sibling groups of young children to be split up due to a regulation that does not focus on the needs of already traumatized children. While the goal of preventing a child from remaining in emergency shelter indefinitely should be maintained, it is important to balance this goal with one focused on reducing trauma to young children by a series of disruptive moves until more permanent placement is obtained.

5. The Committee recommends that CPS maintain ongoing collection and analysis of non-investigative case trends and caseload forecasts. This analysis will enable CPS to more accurately plan for staff and contract services needs. If analysis reveals increases in workloads that are substantially above those calculated at the time state appropriations were distributed to each region, the regional office will be in a better position to request financial relief or operational assistance from Austin.

6. The Committee recommends that unit-level CPS staff turnover data be regularly reviewed to identify questionable supervisory or management practices. Individual supervisors should be held fully accountable in situations where poor supervisory practices have contributed to understaffing problems.

7. The Committee recommends that the initial intake of cases include more careful screening, using consistent guidelines. Cases that are clearly without merit should be rejected at intake or assigned as Priority III for "follow-up" or confirmation, depending on the circumstances surrounding the report. For those cases that are accepted for investigation, complete information must be collected at Statewide Intake to reduce the amount of duplicative effort required by CPS caseworkers at the local level.

8. The Committee recommends that all components of the child welfare system make all reasonable efforts to limit reassignment of caseworkers, supervisors, attorneys, therapists, and primary care providers in any one case. Consistency in care providers is, for many children, the only consistency they know after entering the CPS system. It is crucial that children in state care are assisted by a team of professionals with whom they have developed trust and rapport, whenever possible.

9. The Committee recommends that CPS improve staff training and development. CPS must continue it its efforts to design and implement additional management development activities for new CPS supervisory and management staff. These efforts should be based, at least in part, on the needs identified through direct, face-to-face communications with front-line caseworker staff. Conflict resolution skills are a vital asset to caseworkers, and they should be included in the curriculum.

Initial training programs for new CPS caseworkers should be re-examined and extended. Initial training should include more hands-on experiences with tenured caseworkers in the unit they will be joining. Initial training should integrate more practical, on-the-job skills training and shadowing. A mentoring program could be a valuable addition, but it has been difficult to implement one due to a lack of available mentors and mentor time. Additionally, CPS staff would benefit by a reinstatement of the training sessions formerly provided to them by attorneys *ad litem*, Assistant District Attorneys, and judges on their respective components of the legal system.

10. The Committee recommends that CPS caseworkers and supervisors be provided with the opportunity to periodically evaluate service providers. A formal process should be in place for periodic evaluation of service providers by front-line CPS staff and other agency personnel, such as the District Attorney's, CASA volunteers, and attorneys *ad litem*. Evaluations should consider whether the contractors provide their services at times and locations convenient to the clients (e.g. Are services available in the clients' homes? Do they accommodate client work schedules to the extent feasible?)

11. The Committee recommends that CPS review the level of support given to the CPS Legal Unit. There is an apparent discrepancy between the pay grade for the positions in Bexar County versus other counties. Despite similar job descriptions, qualifications, and requirements, Bexar County positions are paid at a significantly lower pay grade. CPS should immediately refer this matter to its umbrella agency HHSC in Austin for review and appropriate action to ensure equitable compensation for state employees in Bexar County

12. The Committee recommends that CPS management, in cooperation with the District Attorney's Office, evaluate the CPS Legal Unit workload and make necessary adjustments to ensure that staff are able to perform their duties properly. The significant increase in the number of children in a managing conservatorship has stretched the resources of the Legal Unit. Staff in this area require assistance to meet performance goals and provide excellent care for wards of the state.

F. Communication

1. The Committee recommends that the Legislature encourage the creation of an integrated automated system to speed the sharing of information related to CPS cases. Local law enforcement and CPS should work toward creating an interagency "alert system" so that CPS caseworkers can be kept abreast of their clients' domestic disturbances, incarcerations, and new criminal history. It is also recommended that law enforcement and CPS work together, at the state level if necessary, toward providing CPS direct access to TCIC and NCIC. Caseworkers require accurate and timely criminal histories on individuals who are being considered as a caregiver for a child.

2. **The Committee recommends that CPS instate a policy requiring caseworkers to notify**

the child's attorney of significant events. The child's attorney *ad litem* should always be notified of any serious incident involving the child they represent. Communication between CPS and the attorneys, therapists, and service providers in the child's/family's life is crucial. Additionally, CPS should refrain from moving children within the foster care system without prior notice to the child's attorney except in urgent cases.

3. The Committee recommends that the Child Fatality Review process be improved. CPS should reassess which cases go before the Child Fatality Review Committee (the committee charged with reviewing child deaths as a result of abuse or neglect). Current CPS policy requires the community Child Fatality Review Committee review only child death cases found to be caused by abuse or neglect in an open or previously known case. This policy is further limited to requiring reviews only if an allegation of abuse/neglect has been made regarding the death. These policies, as they are currently written and applied, make it optional to submit a case for review even in a case where abuse/neglect is suspected, but cannot be confirmed. It is important that uncertain cases without formal allegations still be submitted for review, and that a database of child fatalities that were caused by the abuse or neglect of parents and/or caregivers be developed in order to identify perpetrators who may later re-enter the CPS system.

4. The Committee recommends that CPS mid-management staff increase interaction with front line staff, formally and informally, to better understand their day-to-day work. It is recommended that, especially in these times of unusually high stress and frustration on the front lines, that mid-management increase their visibility "in the trenches." One of the primary roles of mid-management in the CPS system is to find solutions to issues caseworkers and supervisors are unable to resolve, and, when circumstances dictate, to become more engaged in the process on a daily basis. Without this direct line of communication throughout the hierarchy, caseworkers and supervisors perceive mid-management as being out-of-touch and unresponsive to daily challenges. Staff turnover could be positively impacted by better communication and coordination between management and the front line.

G. Statewide Intake

1. The Committee recommends that an emergency intake priority be established. A "911 Priority" should be established and used as an immediate response priority with police escorts. SB 669 should be changed to reflect this change, and require a police escort to accompany CPS caseworkers for 911 Priority calls only.

2. The Committee recommends that professionals who have statutory reporting requirements (e.g. physicians) be granted expedited access to Statewide Intake. While inconvenience to the professional is no excuse for a failure to report suspected child abuse as mandated by law, many professionals who are required to report suspicions of abuse or neglect work in environments where their time is severely limited. Improving access to the reporting system for these reporters can improve compliance with mandatory reporting laws. Statewide Intake should consider establishing a means to route these calls through the system more quickly to reflect the different nature and urgency of a report made due to statutory obligation.

H. Investigations

1. The Committee recommends that CPS investigators receive more law enforcement-style investigation training to improve the quality of their investigations. Investigations

completed by CPS workers often fail to gather sufficient evidence for the prosecution of perpetrators. Improved investigation training can help CPS caseworkers assist law enforcement to obtain valuable evidence that will be helpful to prosecutors in a criminal case.

2. The Committee recommends that a multi-disciplinary team concept involving CPS and law enforcement professionals be implemented statewide. The use of a multi-disciplinary team concept has been proven to increase efficiency and effectiveness investigations.

3. The Committee recommends that CPS workers and detectives work together in a neutral and child friendly environment that encourages better coordinated and more timely investigations for the benefit of victims. Multidisciplinary and coordinated investigations and subsequent prosecutions of child abuse cases reduce trauma to child victims by reducing the number of times child victims must retell what has happened and by placing all elements of the initial investigation under one roof. Authorized by Chapter 264 of the Texas Family Code, this approach is now being used by Children's Advocacy Centers serving 138 counties, reaching 90 percent of the state's population of children. These centers should be enhanced to serve the entire state, wherever possible. CAC programs with the greatest success are those in which law enforcement and Child Protective Services commit to teamed investigations. No matter the size of the community, clear and timely communication between the investigators is key.

I. Turnover Rate, Recruitment, Pay Scales & Incentives

1. The Committee recommends that DFPS reward tenured frontline workers with career progression and salary increases that are based on skill, position within the agency, educational level, and years of service. Currently, frontline workers reach the top of their pay level after a maximum of four years experience. Their only hope of improved pay is through promotion to the supervisory level. Turnover among these workers is high, especially among investigators who are the first line of defense for abused children. As a consequence, dedicated, skilled workers are leaving these positions in record numbers. This turnover adversely affects child abuse investigations and harms the effectiveness of collaboration with other investigating agencies and CACs.

J. Caseloads and Caseload Limits

1. The Committee recommends that new caseworkers receive a limited caseload during their first year of service. Reasonable introductory caseloads are essential for new caseworkers adjusting to the demands of CPS casework.

2. The Committee recommends that the Legislature immediately act to impose a maximum statewide caseload average for CPS caseworkers with the priority of reducing caseloads to a manageable level as quickly as possible. Currently, child welfare experts and HHSC administrators agree that there is no national average caseload figure available to guide legislators in their selection of this figure. Thus, standards formulated by child welfare advocacy organizations are the only reliable starting point from which to develop a maximum average caseload number. The CWLA recommends an average caseload of 12-18 cases per month for investigative caseworkers; Texas currently averages 75 cases per month at last report. Without a doubt, Texas caseloads are unmanageable and unreasonable; they allow children to remain in unsafe conditions that have led to deaths and serious injuries. The

Committee urges the Legislature to bear in mind that the maximum average caseload it selects ultimately is dependent upon the Legislature's willingness to allocate sufficient funds to ensure child safety.

K. Training

1. The Committee recommends that CPS develop a "train the trainer" program. This program will allow more frequent training of CPS staff with lower costs. Such a program provides training to one staff member who then functions as a trainer for fellow staff in his or her home office. This arrangement reduces the amount of travel time required for all staff to attend training sessions in off-site locations.

2. The Committee recommends that CPS staff be certified in their respective areas of specialization. Evaluations should be done periodically to document skills and knowledge. Certification of achievement should be provided by the training provider.

3. The Committee recommends that CPS develop a centralized system to track staff compliance with training requirements.

4. The Committee recommends that DFPS develop web-based, video and teleconferencing training modules to allow caseworkers more access to training.

5. The Committee recommends that CPS determine equivalencies for on-the-job training versus classroom training, and create a system to credit caseworkers for both types of training.

6. The Committee recommends that CPS institute training workshops to keep staff apprised of all reforms made to CPS policies and practices as they develop following this legislative session.

L. CONTINUING EDUCATION

1. The Committee recommends that caseworkers log at least 12 hours of in-service training per year for continuing education. The agency should monitor compliance with this requirement along with the regular performance review process.

M. EDUCATION LEVEL OF NEW WORKERS

1. The Committee recommends that the agency actively explore the development of internship programs with colleges and universities to increase the potential pool of CPS caseworker applicants.

II. CHILD ABUSE PREVENTION AND EARLY INTERVENTION

1. The Committee recommends that the Legislature restore prevention programs that were cut as a result of the appropriations process in the 78th Legislature. The Legislature should prioritize funding for these programs based on effectiveness.

2. The Committee recommends that the Legislature restore funding identified in the HHSC 2006-07 LAR exceptional item 12. Restoration of this item will restore funding to the STAR program and allow it to continue functioning in all 254 Texas counties.

3. The Committee recommends that HHSC develop a broad-based, interagency approach to promote child abuse and neglect prevention. An interagency approach will reduce the impact of funding cuts in any one particular area, while increasing the reach of existing prevention programs, and encouraging useful synergy among different agencies.

4. The Committee recommends that the Legislature increase funding to combat substance abuse in the state of Texas. Current and future programs should place an emphasis on programs whose treatment focuses on the family unit.

5. The Committee recommends that the Legislature mandate and fund the inclusion of sufficient evaluation mechanisms to accompany all state-funded prevention initiatives in order to identify the most efficient, cost-effective, and promising approaches for the future. Such evaluation mechanisms should be, whenever possible, automated and seamless so as to reduce time spent on paperwork by caseworkers and care providers.

III. FAMILY BASED SERVICES

1. The Committee recommends that a pilot study be done to examine the consolidation of family-based safety services and in home safety services. The similar missions and focuses of these programs could allow a consolidation that would increase the efficient use of scarce resources without negatively affecting child safety.

2. The Committee recommends that family-based services and in home safety services design and implement community-based programs to increase child safety for children in community care. Community collaboration is essential to provide effective services for at-risk families.

3. The Committee recommends that family-based services include extensive drug treatment services to substance abusers, as well as to children raised with them. They cycle of addiction and substance abuse is intergenerational, and children who are raised in a home with caretakers who abuse drugs are more likely to abuse them as they age. In order to stop the cycle of substance abuse, family-based services must recognize and address this aspect of the problem.

IV. COMMUNITY BASED PROGRAMS

1. The Committee recommends that the Legislature appropriate funding for the implementation of community based programs in all counties and regions of the state. As other states and some Texas counties have discovered, community based programs that use CPS as a partner are effective in protecting children from abuse and neglect.

2. The Committee recommends that CPS reemphasize the importance of assigning caseworkers to particular geographical areas to improve their relationships with families and local community partners. Caseworkers who are familiar with families in the community,

as well as with local resources and law enforcement, can provide better protective services in that area.

3. The Committee recommends that the Legislature fund additional pilot projects that provide community based services for CPS intake calls that are designated as information referrals. Many Statewide Intake calls are neither Priority One nor Priority Two calls, but the families involved still require assistance of some kind. While not rising to the level of abuse or neglect under law, such situations can become more serious over time if assistance is not provided at the time a report is made. Community based services can help families to access child care, parenting classes, substance abuse counseling, and many other services that can prevent later abuse and neglect.

4. The Committee recommends that CPS cultivate community partnerships to actively prevent child abuse and neglect and provide early intervention. CPS must be open to community stakeholder participation and collaboration, and willing to participate in community based programs. Neither communities nor CPS can prevent child abuse without mutual assistance.

5. The Committee recommends that DFPS study the effectiveness of its current community based prevention and early intervention programs. DFPS has incorporated some community based services in its prevention and early intervention programs, however, not enough is known about the effectiveness of these programs, making it more difficult to justify their continued funding, as well as to carry out program improvements.

6. The Committee recommends the implementation of a blue ribbon task force in counties that have not established community collaborative efforts. A collaborative effort that includes elected officials on both the local and state levels, as well as other community leaders and stakeholders, will provide a forum for designing local solutions to child abuse and neglect that fit each community's needs. The Bexar county Blue Ribbon Task Force is an example of such a collaborative effort.

7. The Committee recommends that CPS cultivate better working relationships with community-based nonprofit agencies serving children. CPS must take a proactive and positive approach towards communicating with its partners in child care. The agency should:

- Create a continuously reviewed systematic plan of service (i.e., how children in care will be served) that allows key stakeholders to understand CPS' needs and adjust their operations accordingly.
- Schedule periodic meetings between regional/district leadership and contracted private providers to share continuous quality improvement data, discuss current trends and future needs, and assist in resolution of any challenges.
- Improve communication with contracted providers through the use of a newsletter or electronic publication. Articles could include such pertinent topics as licensing violation trends, new interpretations of standards/licensing, grant opportunities, etc.
- Notify every contracted provider of upcoming grant and program opportunities instead of utilizing single source procurement to selected providers as is done now.
- Support joint training opportunities between contracted providers and state caseworkers to make the most of scarce training resources.

V. DATA SHARING AND INFORMATION TECHNOLOGY

1. The Committee recommends that the Legislature fund the HHSC 2006-07 LAR exceptional item 11. Exceptional item 11 provides $1.2 million to replace outdated equipment for the Statewide Intake call center in order reduce hold times for callers and improve call routing. Exceptional Item 11 also funds the creation of a long-term disaster recovery solution to provide for continuity of intake services in the event of a catastrophic event.

2. The Committee recommends that the Legislature allocate additional funds to further reduce the hold time for Statewide Intake callers. Continuous improvement in call center wait times should be the standing goal for Statewide Intake. Such improvement requires additional staff and improved technology. The current five minute average hold time, while an improvement over past performance, is still too long for some callers, especially in an emergency.

3. The Committee recommends that the Legislature fund the development of electronic passports for children in care. Electronic passports should keep case management records readily available for all parties who need them while a child is in state care. Medical and educational records should be included in order to ensure that children in care receive seamless services that allow them to maintain good health and educational attainment. Electronic passports should be developed to leverage web-based technologies that will limit or eliminate the need for service providers to purchase new equipment.

4. The Committee recommends that the Legislature fund the development of an enhanced automatic law enforcement notification system. Such a system should be capable of matching and routing intake data to the appropriate law enforcement jurisdiction in order to reduce erroneous notifications that lead to law enforcement response delays.

5. The Committee recommends that the Legislature fund the development of online information and tutorials for individuals who are required by statute to report abuse and neglect. Such resources can increase the ease of reporting; improve mandatory reporters' understanding of the reporting requirements and processes; and increase the number of abuse and neglect reports.

6. The Committee recommends that the Legislature fund the development of teleconferencing capabilities in the courts in order to increase the efficient use of caseworker and supervisor time. Caseworkers and their supervisors are forced to spend large amounts of valuable time waiting for their appearances in court. While court appearances are an indispensable component of proper child welfare, time in court is time a caseworker or supervisor is not using to provide assistance to children in need. Court appearances cannot be eliminated, but any technology that can preserve due process rights while also increasing the efficient use of caseworker and supervisor time should be employed.

7. The Committee recommends that HHSC work with private child placing agencies to develop a "real-time" system capable of locating vacancies in shelters and foster care placements. Currently, significant time is spent using attempting to locate shelter for children. A real-time system that is accessible to all child care providers and CPS caseworkers would reduce the amount of time spent attempting to locate shelter.

8. The Committee recommends that the Legislature provide sufficient funding for mobile communications use by caseworkers to increase their efficiency in the field. Adequate funding should cover the cost of "unlimited minutes" calling plans for caseworkers. Mobile communications should not be funded by the use of allowances or stipends given to workers. Rather, the State should negotiate with cell phone providers to secure blocks of mobile phone airtime that will cover all employees who currently receive stipends for their mobile phones.

9. The Committee recommends that HHSC involve private partners in the technology planning process to improve the use of technology throughout the public-private spectrum of agencies charged with the protection and care of children in Texas. The need to coordinate and share data between numerous public and private partners requires a development of standards and protocols that should arise from collaborative efforts.

10. The Committee recommends that HHSC use information technology wherever possible to automate and integrate the evaluation of all programs in order to reduce the time caseworkers spend on paperwork. Program evaluation is a crucial part of ensuring the success and survival of child protection programs. Nevertheless, such evaluation requires substantial data gathering by caseworkers, further reducing the time they have to devote to direct services to clients. Designing systems to seamlessly integrate data collection into already routine caseworker activities will allow data to be collected with the minimum impact on caseworker time.

11. The Committee recommends that the Legislature support efforts to improve data-sharing with other states. Efforts should include:

a) The creation and sharing of a convicted child abuser database, similar to that used for convicted sex offenders;

b) Medical and education passports that are accessible by child protection agencies and child welfare providers across state lines.

VI. TRANSITIONING YOUTH

1. The Committee recommends that Chafee/PAL be independently evaluated to determine their effectiveness and identify which program enhancements would be beneficial to children leaving foster care for independent living. There is no current review of the effectiveness of services provided by PAL and the Chafee program. Youths who receive services should be interviewed upon exit from the programs to determine if they are receiving effective services that assist them with their transition.

2. The Committee recommends that the Legislature fund the extension of PAL to all children in rural areas of Texas that are not currently served. Many youths leaving foster care are unable to take advantage of the services offered by PAL because they live in a rural area where such services are unavailable. The demands of adult life arise regardless of geography; the provision of services to youth who are leaving care should be provided throughout Texas.

3. The Committee recommends that transitioning youths be provided with clear and concise information and assistance to continue receiving Medicaid benefits once they leave foster care. Many youths are not aware of the availability of extended Medicaid benefits

or they lack the ability or resources to enroll themselves in the program. Continued participation in Medicaid should be a seamless process upon ageing out of foster care.

4. The Committee recommends that DFPS implement a system to monitor the progress of youths who leave foster care in order to better understand the needs of such individuals and improves services for them in the future. Providing services to a highly mobile and population that sometimes carries unpleasant memories of time in foster care can be difficult, at best. The state must carefully balance the need to protect the privacy and autonomy of individuals who have left state care with the interest of providing services to them in order to facilitate their progression into adulthood.

5. The Committee recommends the use of more community collaboration in order to increase PAL's capacity in all regions of Texas. PAL's services are not available in all areas of the state, and the program does not have sufficient capacity to assist all youth who age out of the system with the same type of services.

6. The Committee recommends that DFPS provide better information on services it provides through PAL and Chafee to youths in foster care. Many youth who age out of foster care are not aware of the serves available to them through PAL or Chafee. and some fall through the cracks to become homeless, hungry, and needy. Better awareness of these transitional services can provide youths with necessary services to help avoid the pitfalls of leaving state care.

VII. PSYCHOTROPIC MEDICATIONS

1. The Committee recommends that the use of psychotropic medications on children in state care be studied. Current studies do not specifically study the use of these medications on children in CPS care, and fail to capture the unique needs and concerns centered on children in such circumstances.

2. The Committee recommends that the Legislature amend the Family Code to develop a clear and robust informed consent policy for children who receive psychotropic medications while in state care. Current informed consent law and policy regarding children in state care is unclear and confusing, and it leaves children without any meaningful advocates to protect their rights and safety. Meaningful informed consent must include, at a minimum, information regarding the medication, its side effects, any adverse effects, alternatives to the medication, recommended dosage, and monitoring of the child's progress while on such medication.

3. The Committee acknowledges its alarm and deep concern over the widespread use of psychotropic medications on children in state care. The Committee urges HHSC to further study this practice with the goal of improving oversight that leads to better child safety. While the ACS Heritage review of Texas Medicaid records is not determinative, it raises serious concerns about the use of psychotropic drugs on wards of the state. There is a paucity of scientific data demonstrating the efficacy and safety of psychotropic use on children, and that should give the State pause when considering this practice. Providing better informed consent procedures is a necessary component of improving child safety, but the Committee also recommends that the Legislature encourage medical care providers to develop meaningful safeguards that will protect children from unwarranted and potentially dangerous medication, as well as to increase disciplinary

actions against providers who engage in improper practices. The Committee further recommends that the Legislature require HHSC to continue work begun by Dr. Charles Bell, MD (Health and Human Services Commission Deputy Executive Commissioner) and Dr. Eduardo Sanchez, MD, MPH (Commissioner of the Texas Department of Health) to improve monitoring of the use of psychotropic medications on children in state care; to increase safeguards that reduce their inappropriate use; and to better manage their care while in the Medicaid system.

4. The Committee recommends that the Legislature instruct the Board of Medical Examiners to examine current protections for professionals who refuse to prescribe or dispense psychotropic medications for children due to their professional reservations, and report back to the Legislature on its findings. Medical professionals must practice according to their professional judgment, without compulsion to prescribe medications due to pressure from the child protection or placement agencies. The Legislature should review the Board of Medical Examiners' findings to determine whether additional statutory protections are required.

5. The Committee recommends that the Legislature mandate the use of a medical records format that will follow children in state care to all placements and be accessible by any individual who prescribes psychotropic medications or who gives informed consent for the use of psychotropic medications. Neither doctors nor care providers can adequately and safely make decisions about a child's care in an information vacuum. Proper documentation of the child's medical history is essential to proper physical and mental health treatment.

6. The Committee recommends that the courts enhance their supervision of the medical care of children in care by requiring that all procedural safeguards called for by law are followed. Once effective and coherent informed consent procedures are developed, the courts must vigorously enforce their use in order to protect the rights of children in care.

7. The Committee recommends that HHSC work with medical professionals and their institutions of learning to ensure that all professionals who prescribe psychotropic medications are properly trained in their use and are kept continually abreast of new developments regarding their safety and efficacy. Many psychotropic drugs are prescribed by physicians who apparently do not have expertise in their use or in the underlying disorders that warrant their prescription. Furthermore, the constantly changing developments in psychopharmacology make it imperative that non-specialists continue to be updated on a regular basis regarding prescribing psychotropic drugs. Finally, professionals new to the field must be educated with an understanding of the issues surrounding treating children in state care, especially with regard to adequate safeguards like providing proper informed consent for children without family structures.

8. The Committee recommends the further development and use of mental health clinical pathways in the treatment of children in state care. Many doctors who are not specially trained in child psychiatry treat children with mental disorders. Clinical pathways can assist non-specialists to provide better care by guiding physicians who are diagnosing mental disorders and prescribing psychotropic drugs.

9. The Committee recommends that the Legislature mandate that all children in state care be treated according to the professionally established standard of care indicated for

their mental illnesses, including the use of counseling and other psychotherapeutic options. Testimony before the Committee revealed that many children in state care are receiving medication treatment only, although counseling or other therapies are indicated for their conditions. Most children entering CPS care have been exposed to high levels of trauma prior to entering the system. Their treatment should include appropriate trauma-sensitive care that matches their individual needs. Medication should not serve as a lubricant for easier placement of problematic children, nor should it be the only treatment employed when other treatments have been demonstrated as successful.

10. The Committee recommends that HHSC require, as part of its standard contracting practices, that child placing agencies provide detailed documentation about their provision of therapy for children in care, along with the use of any psychotropic medications administered. The Committee further recommends improved monitoring of psychotropic drug use by Medicaid. Expert testimony before the Committee revealed that psychotropic drugs are rarely, if ever, indicated as the only treatment for a child's mental health illness. The provision of therapy is an essential part of proper treatment and rehabilitation for many children in state care. Child placing agencies should be required to document the provision of both services to children to ensure that children in state care are cared for appropriately. Medicaid, as the single entity offering payment for these services, should accurately document their proper utilization.

11. The Committee recommends that HHSC create a medical review board to monitor the use of psychotropic drugs in children in state care, and that the medical review board develop and promote best practices for providing mental health care for children in care. The medical review board should be comprised of professionals from a diverse cross-section of professionals involved in the care of children in CPS care, but not limited to members of the medical and psychological disciplines.

12. The Committee recommends that all caretakers of children in state care (e.g. foster parents, caseworkers, social workers, teachers, etc.) receive thorough training on the use and effects of psychotropic medications. Many individuals who provide care to children have little knowledge of psychotropic drugs and their use, administration, effects, and effectiveness. Comprehensive training should ensure that caregivers can demonstrate their knowledge about these drugs and their risks, and are fully aware of the need to carefully monitor children on medications, as well as to communicate with medical professionals for the duration of the child's treatment.

VIII. FUNDING

1. The Committee recommends that the Legislature enact a $1 per pack cigarette tax and devote the proceeds (after appropriations for smoking cessation programs) to human services spending, with an emphasis on child welfare programs. With few other likely taxation options, the cigarette tax provides one of the best hopes for providing desperately needed funding for child welfare and protection.

2. The Committee recommends that the Legislature increase general revenue spending on child welfare programs to draw down more federal matching funds. Texas has drawn down as much funding as it can from the federal government with its current levels of general revenue spending. An increase in state spending will attract more federal dollars to fight child abuse and neglect. Wherever possible, the Legislature should

design child protection funding strategies that maximize the drawdown of federal funds.

3. The Committee recommends that the Legislature restore funding for targeted case management as requested in the DFPS Exceptional Item Number 5.

4. The Committee recommends that the Legislature expand the Texas Integrated Funding Initiative statewide to ensure children and families receive wraparound services, and to ensure the most efficient use of funding across all agencies that provide child welfare services.

5. The Committee recommends that HHSC apply for a Title IV-E waiver to allow the agency to offer payments for kinship placements. Currently, HHSC cannot use Title IV-E funds for this purpose, reducing the agency's ability to encourage kinship care for children who are removed from their homes. HHSC should consider appropriate policies for providing these payments based on need or hardship.

6. The Committee recommends that the Legislature explore other means to generate revenue for child protective services.

IX. PRIVATIZATION OF CHILD PROTECTIVE SERVICES

1. The Committee recommends that HHSC study which areas of CPS could benefit by privatization. Such a study should use the improved welfare of children as the primary factor in determining whether privatization would be desirable.

2. The Committee recommends that any privatization efforts are developed in tandem with rigorous accountability and oversight mechanisms. Contracting with and performance by private agencies must be zealously reviewed and regulated. Privatization schemes should be attempted first on a pilot program basis.

3. The Committee recommends that privatization efforts, where warranted, be designed to take place within reasonable time frames.

4. The Committee recommends that privatization efforts by include stakeholder input at all stages of development.

5. The Committee recommends that HHSC develop contingency plans to accompany all privatization plans in order to provide for emergency takeovers of privatized functions in the case of private provider service disruptions.

X. LEGAL ACTIONS AGAINST THE STATE

1. The Committee recommends that the Legislature take rapid, comprehensive action to make systemic reforms to the CPS system in order to reduce the threat of legal action against CPS that could abrogate the Legislature's policymaking powers.

CHARGE THREE: Assess the effectiveness of new marriage promotion initiatives in the Temporary Assistance For Needy Families (TANF) program.

Background

There has been a steady increase in births to unmarried parents in the State of Texas from 1995 to 2002 (last year's data is not available). In 2002, 32.4% of births in Texas were to unmarried mothers, up from 29.9% in 1995. The Texas rate of 32.4% is slightly below the national average of almost 34%.

Marital Status	1996	1997	1998	1999	2000	2001	2002	Total
Married	229,389	231,036	234,126	239,593	251,944	251,349	251,265	1,914,201
Unmarried	100,513	102,426	107,696	109,192	110,940	113,280	120,650	861,467
Unknown	336	367	377	372	441	463	454	3,210
All	330,238	333,829	342,199	349,157	363,325	365,092	372,369	2,778,878

(Texas Dept. of Health – Birth Data)

The Fragile Families and Child Wellbeing Study is a 20-city study of unmarried parents conducted by the Center for Research on Child Wellbeing at Princeton University. Findings from this groundbreaking study identify a number of policy and programmatic issues that both guide project development and temper hopes for program impact.

- 82% of unmarried parents are still in a romantic relationship at the birth of their child, of those, 51% are co-habiting, more than 2/3rds believe their chances of marriage to be better than 50/50.

- In the absence of any intervention, 9% of unmarried couples get married in the first year. Simulations of relationship improvement, father employment increases, and wage increases only result in an additional 5% marrying during the first year of their child's life for a total of 14%.

- The most common barriers to marriage identified by the study participants through qualitative interviews were:
    - financial concerns,
    - relationship problems, and
    - timing issues.

- 42% of unmarried parents are no longer in a romantic relationship of any sort one year after the birth of their child.

- Most studies find that father's employment is an important predictor of both marriage and marital stability. 21% of unmarried fathers are unemployed at the time of the birth.

- One dollar per hour increase in the father's wages increases the odds of moving into marriage by 5%.

- Unmarried mothers are three times more likely to report family violence, which is a significant deterrent to marriage. 13% of unmarried couples have a high risk of violence.

- 16% of unmarried fathers report drug or alcohol problems, compared to less than 8% of married fathers.

The most encouraging news to come out of the Fragile Families and Child Wellbeing Study is that the overwhelming majority of unmarried parents are romantically connected at the time their child is born, and that they have high expectations for the future of their relationship. These same unmarried parents overwhelmingly believe that their children will benefit from their marriage, with over 2/3rds of the mothers and 3/4ths of the fathers saying, "it is better for children if their parents are married". In addition to what unmarried parents believe, there is widespread agreement among social scientists that children living with their married, biological parents are less likely to live in poverty and more likely to be healthy and succeed educationally.

Office of the Attorney General Healthy Marriage Promotion

As the Office of the Attorney General (OAG) develops interventions to build on the "magic moment" of birth and the hopes most unmarried parents have for marriage and stable family life, the following themes are guiding their plans:

- Improved child wellbeing is the ultimate goal for the OAG Division for Families and Children and all activities must be developed in a way that is responsive to the best interest of children whether their parents are married or not.

- Involvement in healthy marriage programmatic services must be on a purely voluntary basis with attention to couples who express a desire to marry.

- Issues of relationship and family violence must be addressed at the outset for projects encouraging healthy marriage and professionals from the family violence field consulted throughout the planning process.

- As the only public agency that has a contact with all unmarried parents at the time of their child's birth, the OAG is uniquely situated to build on the legal process of paternity establishment with additional family formation supports.

- The OAG has a logical role in building strong families both to protect the legal rights of children born to unmarried parents and prevent the need for child support services for children whose parents never marry or divorce.

- In order to address the range of barriers to marriage that unmarried couples face (e.g. relationship violence, unstable employment, mental health), OAG efforts to strengthen families and encourage healthy marriage will be undertaken collaboratively with other state and federal agencies, faith and community-based organizations, and private foundations.

- Projects to encourage unmarried couples to marry are in their developmental stages and one of the primary goals for these first interventions is to determine what works.

The OAG will proceed in developing projects on a pilot/demonstration basis and include a substantial research and evaluation component to measure the outcomes from project activities, analyze effectiveness of program services, and develop policy recommendations for future activities.

Current OAG involvement to strengthen families and encourage healthy marriage include:

- **Texas Fragile Families Initiative (TFFI**)– An 11-site demonstration project serves young, low-income fathers and their families. Twenty-eight foundations provided over $5.5 million in funding for the 3+ year project. Primary focus for the local sites was on helping young fathers gain parenting skills; improve education; secure stable employment' improve parenting relationship with the mother of the child; and responsibly interact with the child support agency.

- **Project Bootstrap** – A four site pilot project is designed to help young, low-income fathers improve employment stability and responsibly cooperate with child support. It is funded through a federal OCSE Sec. 1115 grant, and developed in partnership with TFFI. Each site developed a range of training and employment services in partnership with the local workforce development board.

- **Family Reintegration Project** – A pilot project in Houston and El Paso helps prepare soon-to-be-released offenders in the Texas Department of Criminal Justice to find an appropriate level of reintegration into the life of their children. The program provides parenting skills training, employment connections, individual child support case work, outreach to custodial parents, and relationship mediation.

- **p.a.p.a. Curriculum** – The OAG's new "Parenting and Paternity Awareness" (**p.a.p.a**.) curriculum includes discussions of marriage and committed relationships specifically in one of the ten sessions and generally throughout the curriculum. Additionally, the curriculum emphasizes the importance of fathers to child well-being. Dissemination to educators began in June 2003; more than 1000 teachers across Texas have received curriculum training. An initial follow-up assessment with teachers has indicated an overwhelmingly positive response to the curriculum by both teachers and students.

- **No Kidding: Straight Talk From Teen Parents** – This OAG pilot project uses teen fathers and mothers to provide educational presentations and mentoring to school -aged teens, with a primary emphasis on the enormous responsibilities of parenting, the value of stable parenting relationships (including marriage) and encouraging non-parenting teens to wait until they are older and in more stable relationships before becoming parents.

- **"When You Get Married"** - This premarital handbook is prepared by the OAG under provisions of Section 2.104 of the Texas Family Code. "When You Get Married" is produced in a workbook format that encourages couples to have discussions about a variety of marital issues including; goals, faith, children, money, and even child support (for those entering step-family situations). Over 100,000 copies (in English and Spanish) are distributed yearly through county clerks. In addition, OAG has responded to requests from community and faith-based groups for copies of the handbook.

The OAG is planning six regional summits for community stakeholders to build community awareness about the value of strong and stable families and healthy marriage for child

wellbeing and communities in general, and to support the development and implementation of community initiatives (including broad-based collaborations) that strengthen families and encourage healthy marriages. The summits are tentatively scheduled throughout the fall of 2004 and are to take place in McAllen, San Antonio, Dallas, Houston, El Paso, and Lubbock.

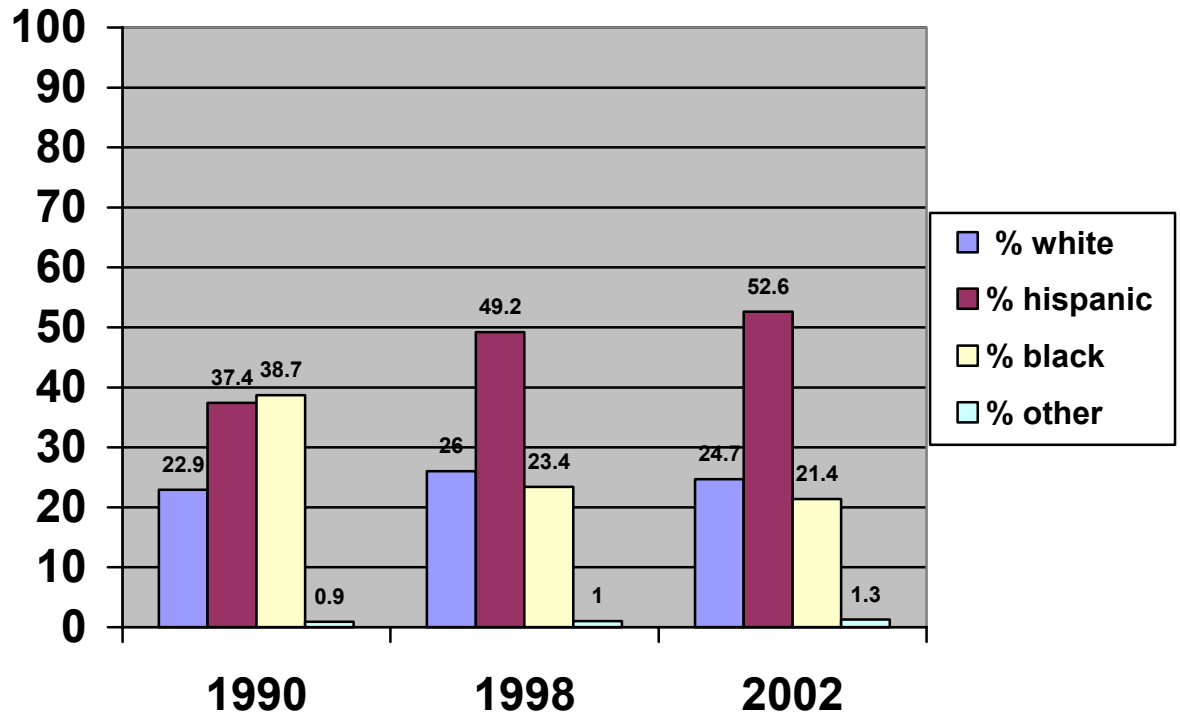
Specific Committee Inquiries

Committee members inquired about the ethnic breakdown of births to unmarried mothers. The testimony on the ethnic breakdown of out-of-wedlock births showed a high number of such births among Hispanic women in Texas: In 2002, out of the total 120,650 births to unmarried mothers:

- 63,462 or 52.6% were to Hispanic,
- 29,825 or 24.7% were to non-Hispanic white,
- 25,771 or 21.4% were to Black, and
- 1,592 or 1.3% were to "other"

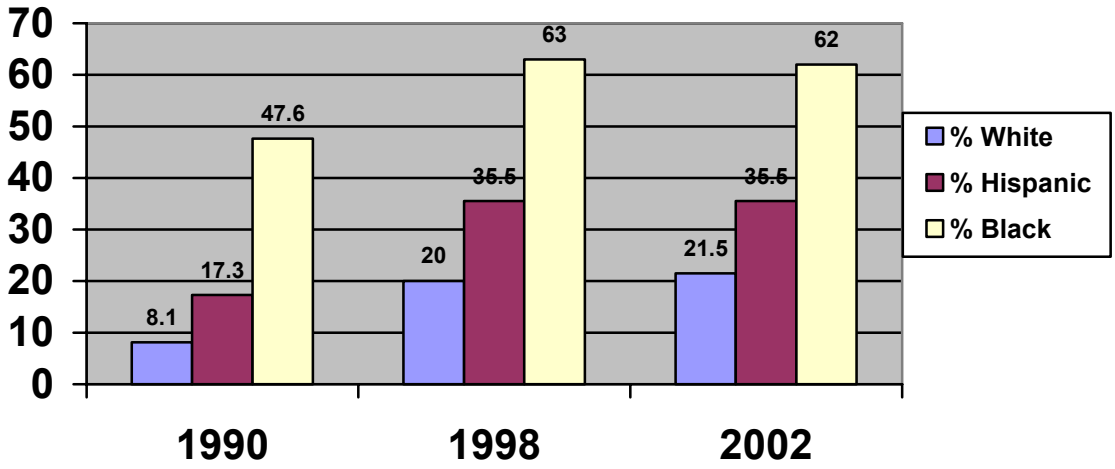
The following chart shows a breakdown of out-of wedlock births in Texas for selected years.

Birth Data for selected years: Race/ethnicity of birth mothers – for non-marital births only. Figures shown are percentage of the total non-marital births that year (Texas BVS Data)



In 2002, 32.4% of all births in Texas were to unmarried women. The following chart breaks this down by race/ethnicity –

Percentage of all births by race/ethnicity to unmarried mothers (Texas Dept. of Health - BVS Data)



In 1990 the total percentage of births to unmarried mothers in Texas was 16.8%, as compared to 2002 when the percentage was 32.4%; -- almost a 100% increase. The above chart shows the increases in each race/ethnic group. Rates for non-Hispanic whites and Hispanics have more than doubled over the course of the 12 years covered by this chart.

The Committee inquired about the number of school districts that have at least one educator who has received training in the p.a.p.a curriculum: Testimony indicated that a minimum of 107 school districts (out of 1004) and 202 charter schools have sent personnel to PAPA curriculum training.

The Committee inquired about the percentage of OAG child support cases that are currently receiving TANF or previously received TANF. Out of approximately 893,000 active cases (as of 5/31/04) in our system: 412,000 cases, or 45%, formerly received TANF; 102,000 or 11% are current TANF recipients. The total of both current and former TANF recipient cases is: 514,000 cases, or 56%.

The Committee requested information on steps taken by other states to address child support disincentives to marriage: Of the states that are taking steps to address forgiveness of state-owed child support arrears when couples marry, only Tennessee and Vermont have passed legislation to allow forgiveness. Vermont law allows for forgiveness of state-owed arrears as long as household income is above 225% of federal poverty guidelines, Tennessee allows for forgiveness of state-owed arrears as long as the couple marries and resides in the same residence. Minnesota, Vermont, Iowa, and Washington have implemented programs to allow the child support agency to suspend collections of state-owed arrears if the non-custodial and custodial parent marry or remarry each other. Maryland, New Hampshire, North Dakota, Oregon, South Dakota, and Utah all responded to a 1998 survey conducted by an independent child support policy research organization that they have arrears forgiveness policies for

families that reunite.

A problem that faces many states including Texas, is the ability to collect child support arrears. The Administration for Children and Families released a study in July of 2004 that reported on child support arrears nationwide. That report showed that 63% of the child support debtors, holding 70% of the child support debt, had reported incomes of $10,000 a year or less. In fact, 34% had no reported earnings at all. Some of these debtors do have ability to pay with income from other sources than are reported in the Quarterly Wage Report. Ten percent of these individuals have bank accounts, some are receiving federal benefits such as Social Security and Unemployment, some employers may not be reporting income they are required to, and some debtors are undoubtedly getting paid "under the table". Taking into account all those possible sources of income, there is still a large percentage of child support debt owed by non-custodial parents with little or no income.

Finally, the Committee inquired about the part education plays in the birth of children to unmarried mothers. The Texas Department of Health – Bureau of Vital Statistics data table on educational level of unmarried mothers for the year 2002 states that 45.7% of unmarried mothers in Texas had less than 12 years of education, 52.5% had 12 years or more of education, and 1.7% were unknown.

Marriage Promotion in the Context of Domestic Violence

Critics of healthy marriage initiatives often assert that these programs encourage women to remain in dangerous relationships. Specifically, critics argue that a substantial portion of many low-income women who would participate in the marriage program are in abusive relationships and that the program would push women into marriages with abusive men, thereby increasing the rate of domestic abuse.[76] Advocates of healthy marriage initiatives insist that their programs do not lead to increased domestic violence, and instead increase safety for women and children. The novelty of these programs means that there is not yet enough data to determine which side has more evidence for its claims. Nevertheless, it is important for the Legislature to understand the scope of domestic violence when making any policy decisions that are intended to increase the number of individuals who marry. Without cognizance of the risks involved in encouraging marriage among individuals who might otherwise choose not to marry, the State could unwittingly contribute to the already massive social problem of domestic violence.

Family Violence In Texas					
	2003	2002	2001	2000	1999
Family violence incidents*	185,299	183,400	180,385	175,282	177,176
Women killed by intimate male partners**	140	117	113	104	99

**TDPS reports on a calendar year basis (January 1 - December 31, 2001.*
***TDPS 2003 supplemental homicide report and TCFV news research, defined as husbands, exhusbands, common-law husbands, boyfriends, and ex-boyfriends.*

Family Violence Shelter Services in Texas					
	2003	2002	2001	2000	1999
Adults sheltered	11,545	11,257	12,589	11,841	11,423
Children sheltered	18,188	17,629	16,838	15,779	15,066
Adults receiving non-residential services	34,452	33,403	32,267	29,362	28,196
Adults denied shelter due to lack of space	22%	19%	16%	23%	23%
Hotline calls answered	179,061	184,245	156,518	162,809	157,248
Referrals and information provided to batterers	6,924	6,923	7,332	7,911	8,601

Information provided by the Texas Health and Human Services Commission (formerly the Texas Department of Human Services).

Texas Family Violence Statistics

In 2002, The Texas Council on Family Violence conducted a statewide polling on prevalence and attitudes on domestic violence. Below are some of the findings:

- 74% of all Texans have either themselves, a family member and/or a friend experienced some form of domestic violence.

- 47% of all Texans report having personally experienced at least one form of domestic violence, severe (physical or sexual), verbal and/or forced isolation from friends and family at some point in their lifetime.

- 31% of all Texans report that they have been severely abused (physically or sexually abused) at some point in their lifetime. Women report severe abuse at a higher rate than men.

- 75% of all Texans report that they would be likely to call the police if they were to experience some form of domestic violence. Yet only 20.3% indicated that they actually did call the police when they or a family member experienced domestic violence.

- 73% of all Texans believe that domestic violence is a serious problem in Texas.

HHSC (Formerly DHS) reports that 913,404 Texas women were battered in 2003.

National Family Violence Statistics

- The National Domestic Violence Hotline (NDVH) has received over 1,000,000 calls since February 1996.

- Nationally, ninety-two percent of women say that reducing domestic violence and sexual assault should be a top priority of any formal efforts taken on behalf of women today, according to a new survey released by the Center for the Advancement of Women.

- Approximately 1.5 million women are raped and/or physically assaulted by an intimate partner each year in the United States. — National Institute of Justice, July 2000.

- Estimates of the number of cases of violence against a current or former spouse, boyfriend, or girlfriend range from 960,000 incidents per year to 4 million per year. — Violence by Intimates: Analysis of Data on Crimes by Current or Former Spouses, Boyfriends and Girlfriends, U.S. Department of Justice, March, 1998.

Other Family Violence Statistics

- While women are less likely than men to be victims of violent crimes overall, women are 5 to 8 times more likely than men to be victimized by an intimate partner. — Violence by Intimates: Analysis of Data on Crimes by Current or Former Spouses, Boyfriends and Girlfriends, U.S. Department of Justice, March, 1998.

- Violence by an intimate accounts for about 21% of violent crime experienced by women and about 2 % of the violence experienced by men.—Violence by Intimates: Analysis of Data on Crimes by Current or Former Spouses, Boyfriends and Girlfriends, U.S. Department of Justice, March, 1998.

Homicide

- On average, more than three women are murdered by their husbands or boyfriends in this country every day. In 1998, approximately 1,830 murders were attributed to intimates; nearly three out of four of the murder victims (1,320 total) were women. - U.S. Department of Justice, Intimate Partner Violence, May 2000.

- In 1996, among all female murder victims in the U.S., 30% were slain by their husbands or boyfriends.— Uniform Crime Reports of the U.S. 1996, Federal Bureau of Investigation, 1996.

- 31,260 women were murdered by an intimate from 1976-1996. — Violence by Intimates: Analysis of Data on Crimes by Current or Former Spouses, Boyfriends, and Girlfriends, U.S. Department of Justice, March 1998

Domestic Violence and Children

- Studies show that child abuse occurs in 30-60% of family violence cases that involve families with children.— "The overlap between child maltreatment and woman battering." *J.L. Edleson, Violence Against Women, February, 1999.*

- A child's exposure to the father abusing the mother is the strongest risk factor for transmitting violent behavior from one generation to the next.— *Report of the American Psychological Association Presidential Task Force on Violence and the Family, APA, 1996.*

- Forty percent of teenage girls age 14 to 17 report knowing someone their age who has been hit or beaten by a boyfriend.— *Children Now/Kaiser Permanente poll, December, 1995.*

Domestic Violence and the Workplace

- Family violence costs the nation from $5 to $10 billion annually in medical expenses, police and court costs, shelters and foster care, sick leave, absenteeism, and non-productivity.— *Medical News, American Medical Association, January, 1992.*

- Husbands and boyfriends commit 13,000 acts of violence against women in the workplace every year.— *Violence and Theft in the Workplace, U.S. Department of Justice, July, 1994.*

- The majority of welfare recipients have experienced domestic abuse in their adult lives and a high percentage are currently abused. — *Trapped by Poverty, Trapped by Abuse: New Evidence Documenting the Relationship Between Domestic Violence and Welfare, The Taylor Institute, April, 1997.*

Conclusion

The negative consequences associated with out-of-wedlock births are real, and the problems associated with the phenomenon continue to grow in Texas. The promotion of healthy marriages is one viable option open to policy makers, however equal or more attention should be paid to the option of helping out-of-wedlock mothers avoid unwanted pregnancies in the first place. Texas legislators must carefully weigh the benefits of marriage promotion against the potential risks of encouraging marriages that might be more likely to lead to domestic violence. Finally, government promotion of healthy marriages is a relatively new policy, but current funding structures mean that adopting this policy can divert urgently needed funds away from programs that supply the necessities of life, in favor of ambitious but as yet unproven marriage promotion programs. Caution is advised in any attempts to expand these programs at the cost of cutting services that are a matter of life and death for families in need.

RECOMMENDATIONS

1. The Committee recommends that legislators consider:

- **a)** Compromising or forgiving child support arrears that are owed to the state when a non-custodial parent marries the custodial parent of their child and remains married for a certain period of time. At least seven states have taken steps to address child support disincentives for marriage. The criterion for forgiving state-owed arrears and the methods of forgiveness varies by state.
- **b)** Establishing paternity in-hospital is a prime opportunity to provide resources that encourage couples to consider marriage. Almost three quarters of unmarried parents in Texas establish paternity for their child while at the hospital – higher than the national average. Policymakers may want to consider steps to provide new parents with information and resources that encourage them to formalize their relationship through marriage.
- **c)** Improving and expanding the p.a.p.a. (Parenting and Paternity Awareness) Program developed by the Attorney General's Child Support Division. P.a.p.a. currently provides a teenage program started in middle school that emphasizes the importance of fathers to a child's well-being. Since the program's inception, over 1,000 teachers across Texas have received curriculum training from the Attorney General's office.
- **d)** Recommending that each school district select a number of health teachers from their district to receive training from the Attorney General's office on the p.a.p.a. Program, and subsequently return to their school districts to train other teachers.
- **e)** Recognizing the connection between spousal violence and child abuse, and designing marriage promotion strategies that are less likely to lead to marriages at high risk of spousal abuse.

2. The Committee recommends that increased funding for marriage promotion programs should not come at the expense of cuts to other welfare programs that supply basic needs for families. Proposals that would allow the diversion of TANF funds for the use of marriage promotion could divert already scarce resources away from welfare benefits that families need to survive from day to day. While marriage promotion might lead to future reductions of welfare recipients, there are families in need of assistance now. Funding for marriage promotion should not come at the expense of providing for the needs of these families today.

CHARGE FOUR: Monitor congressional reauthorization of TANF and the impact of federal policy changes on Texas' welfare reform efforts. Report any needed policy changes to accommodate new federal policy for the 79th Legislature.

Background

The 1996 welfare reform law, the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA), created the Temporary Assistance to Needy Families (TANF) program to replace Aid to Families with Dependant Children (AFDC). The PRWORA was preceded by Texas' reform of its state welfare system through the enactment of HB 1863 in 1995, which had much in common with the federal legislation that followed it.

Four Original Purposes of TANF

- Provide assistance to needy families so that children may be cared for in their own homes or in the homes of relatives;
- End the dependence of needy parents on government benefits by promoting job preparation, work, and marriage;
- Prevent and reduce the incidence of out-of-wedlock pregnancies and establish annual numerical goals for preventing and reducing the incidence of these pregnancies; and
- Encourage the formation and maintenance of two-parent families.

Source: Personal Responsibility and Work Opportunity Reconciliation Act of 1996

After nearly a decade, the effects of welfare reform continue to be studied. In 2002, the state-funded report *Texas Families in Transition* revealed that the number of individuals dependent upon the welfare system in Texas declined dramatically as a result of PRWORA and HB 1863. However, the report also documented that the average annual earnings of those who left the welfare system were below the federal poverty level, and many received no employment benefits with their jobs. These factors conspired to create a high recidivism rate, with 41 percent returning to the welfare rolls within 18 months.

Reauthorization Efforts Stalled

Congress gave itself a 2002 deadline to reauthorize the TANF block grant and the Child Care and Development Fund, but it has failed to do so. The failure is due primarily to disagreements over recipient work requirements and child care funding. Reauthorization has been put off in favor of a temporary extension of TANF. As of September 29, 2004, there have been eight such extensions; the most recent expires on March 31, 2005. Despite President Bush's public call upon the 108th Congress to place TANF reauthorization high on its agenda, it is unlikely that Congress will complete that task if it reconvenes for a lame duck session following the November 2, 2004 general election. The extension of TANF until March 31, 2005 most likely places reauthorization into the hands of the incoming 109th Congress.

President Bush's Proposal for TANF Reauthorization

The Bush administration unveiled its TANF reauthorization proposal at the end of February 2002. Bush's proposal called for:

- Increasing state work requirements;
- Increasing required number of hours that recipients had to work from 30 to 40 hours per week;
- Ending the practice of allowing states to count rehabilitation and work support services as work activity after three consecutive months;
- Adding $300 million in funding for state marriage promotion programs;
- Freezing TANF funding to states at FY2002 levels, with no inflation increases;
- Continuing a ban on benefits to legal immigrants who arrived in the U.S. after 1996.

President Bush's proposal generated concern among some lawmakers because of its potentially inadequate funding provisions for the primary TANF block grant and the Child Care Block Grant. Lawmakers were also concerned that the President's proposed increases and changes in individual work requirements would not be accompanied by funding increases to help states comply with those new requirements.

Senate and House of Representatives Reauthorization Efforts

The Senate and the House each introduced TANF reauthorization legislation in 2002. The chief differences between the two versions have centered on recipient work requirements and child care funding.

Major features of the House version included:

- Increasing child care funds by $1 billion over five years;
- Adding $300 million for state marriage promotion and fatherhood programs;
- Increasing mandatory work requirements (40 hours per week), with no consideration for recipients who have young children. This increase in work hours required the first 24 hours to be in "direct" work activities;
- Imposing full-family sanctions for non-compliance with work activity requirements;
- Providing a "superwaiver" for states that would allow states to design social support programs to best meet the state's needs.

The Senate version differed primarily in its inclusion of more funding for child care and greater flexibility on recipient work requirements. The House's version was passed twice: once in May 2002 and a second time in February 2003. The Senate's version was never passed. Congress's TANF reauthorization efforts are stopped at this point.

HB 2292 and Texas Welfare Reforms

The 78th Texas Legislature passed House Bill 2292, creating a “pay for performance”

Temporary Assistance for Needy Families (TANF) program. Prior to HB2292, Texas had a partial check sanction for non-cooperation with the requirements of the Personal Responsibility Agreement (PRA). These penalties were $78 per month for 1 parent failing to comply with work requirements (Maximum grant amount for a single parent family with two children is $217), $124 per month for 2 parents failing to comply with work requirements (Maximum grant amount for a two parent family with two children is $267), and $25 per month for each non-work violation (such as failure to immunize a child). The TANF case remained open during the sanction and the families' other benefits were not affected.

Pay for Performance works differently. Families receive first month of benefits up front. Families are only entitled to receive subsequent benefits if they cooperate with all provisions of the PRA, comprised of the following: child support enforcement, children's health checkups, children's immunizations, children's school attendance, no drug or alcohol abuse, retaining employment, Choices program participation, and parenting skills training, if appropriate.

Pay for Performance also introduced a Full Family Sanction. Non-cooperation with any provision of the PRA results in the loss of all TANF cash assistance provided to the family for at least one month. Non-cooperation with work or child support requirements also results in the suspension of the adult(s)'s Medicaid benefits, unless the adult is under age 19 or pregnant. Benefits are not restored until the family demonstrates one month of cooperation. In addition, two consecutive months of non-cooperation results in denial of the TANF case. Former recipients must reapply for TANF and demonstrate cooperation with all provisions of the PRA in order to reinstate benefits.

Implementation of HB 2292

In Fiscal Year 2003, prior to HB 2292 implementation, the number of individuals sanctioned for not cooperating with Choices work requirements averaged 23,000 per month, which was 33% of the mandatory Choices Eligible Adults. Following the implementation of the pay for performance model, the number of individuals sanctioned in August 2004 dropped to 3,000, representing 7.5% of the mandatory Choices Eligible Adults. This represents an 87% percent reduction in the number of individuals sanctioned for non-cooperation with Choices work requirements. Furthermore, the number of sanctions initiated for non-cooperation with Choices work requirements in FY 2004 has dropped 29% from FY 2003. Texas' population of mandatory Choices participants decreased from 71,000 in August 2003 to 41,000 in August 2004 – a 42% decrease. The percentage of Choices Eligible Adults participating in Choices activities increased from 29% in FY 2003 to 43% in FY 2004, a 46% increase.

HB 2292 appears to have had a positive affect on raising Texas' compliance with work TANF participation rates. Texas' Federal Participation Rate rose from 25% in the first two quarters of FFY 2003 to 43% in the first two quarters of FFY 2004, a 72% increase. Texas' Efficiency Factor (the number of Choices Eligibles that must be served to get one into the numerator) decreased from 2.7 in FY 2003 to 2.3 in FY 2004, an 11% decrease.

Moving toward Universal Engagement in Texas

Currently, all Texas TANF recipient families are required to complete a Personal Responsibility Agreement, however not all recipients have an established Family Employment Plan. Mandatory recipients are required to work, but that requirement cannot be enforced until the mandatory recipient is outreached, and not all mandatory recipients are outreached.

The Pay for Performance model improved efficiency in the Choices program by at least 11%. This allows the Texas Workforce Commission (TWC) to have more clients fully meeting work requirements with the same amount of funding. Building on the success of the Pay for Performance model and increased efficiencies already realized in the childcare program through program integration and in anticipation of TANF reauthorization, TWC has increased the target participation rate for Local Workforce Development areas from 24.1% in FY 2004, to 43% in FY 2005, a 78% percent increase. TWC has also increased the FY 2005 target for the number of adults in the participation rate numerator by 18% over FY 2004. To meet this increased requirement, Local Workforce Development Boards will likely have to engage more clients in Choices services, moving Texas closer to universal engagement.

Key Reauthorization Issues Affecting Texas Policy

- **Legal immigrant benefit restrictions**. Texas has a large and growing immigrant population. Texas is home to more than two million residents who are not U.S. citizens, comprising about ten percent of the state's total population.[77] Twenty-two percent of these non-citizen residents live in poverty.[78] Many of these immigrants are in Texas legally, yet federal TANF restrictions prevent them from receiving benefits through the program. These restrictions place a higher burden on already overwhelmed social service providers in the state. Proposals from President Bush and the Congress include a continuation of these restrictions. Texas can reasonably anticipate rising levels of need among growing legal immigrant populations that will lead to increased pressure on other social welfare systems that serve immigrant populations.

- **Supplemental grants for high growth states.** Texas has a quickly growing, young, and poor population that was assisted by the inclusion of supplemental TANF grants targeted at similarly situated states. Reauthorization may involve debates about whether these supplemental grants should be reduced, continued as they are, or increased. Any reduction of supplemental TANF grant funds would be a blow to Texas' welfare programs if they are not offset by other increases in the block grant.

- **Increases in work participation rates**. Texas, like other states, is required to meet TANF work participation rates. In the past, Texas' work participation rate has been low, but the state has used other TANF provisions to stay in compliance with federal rules. Reauthorization may mandate higher work participation rates and the end of provisions that have allowed Texas to offset its low performance in this area. Such a combination could endanger the state's ability to comply with TANF requirements and lead to a loss of funding.

- **Childcare funding.**
  An continuing emphasis on and increased funding of marriage promotion, family formation, and fatherhood training programs are consuming funds that could otherwise go directly to children in need.

- **Proposed "Superwaiver".** Some reauthorization proposals include a provision for a "superwaiver" that gives states unprecedented authority to alter a wide range of federal assistance programs as they see fit, with few restrictions. Under this provision, states would have the ability to shift federal funds to areas of priority that they identify. Waivers can yield innovations as states experiment with new approaches to meet unique needs

with fewer restrictions from Washington. However, the "superwaiver" concept has been criticized for its breadth and lack of protections for vulnerable populations targeted to receive federal assistance.

The current TANF extension will expire on March 31, 2005. The extension included no changes to existing federal policy, therefore states can continue to administer their TANF programs as they have in the past. The impact of TANF reauthorization on Texas welfare reform policies cannot be ascertained at this time.

Conclusion

Congress' TANF reauthorization efforts are two years overdue, and lawmakers continue to have difficulty agreeing on several key components of TANF reauthorization that are particularly important to Texas. Restrictions on the receipt of TANF funds by legal immigrants; superwaivers for states; provisions for high population growth states; work participation rates; and childcare funding all elude agreement in Washington, but each issue has important ramifications on welfare reform efforts in Texas. TANF is unlikely to be reauthorized by the 108th Congress, and the 109th Congress may not accomplish this goal by the time the 79th Texas Legislature's regular session ends. Therefore, legislators will have difficulty making meaningful and careful reforms to any TANF-linked welfare programs in Texas until the outcome of TANF reauthorization is known. Legislators should proceed with caution as they examine welfare reform during the coming session, and should remain prepared to react to TANF reauthorization outside of the regular legislative session.

RECOMMENDATIONS

1. The Committee recommends continued monitoring of federal TANF reauthorization efforts.

2. The Committee recommends that the 79th Legislature delay welfare reform efforts that are dependent upon TANF until Congress completes reauthorization of the program. However, the Legislature should consider measures that are effective in increasing work compliance rates in Texas, because these work compliance rates are likely to rise when TANF is reauthorized.

3. The Committee recommends that the Governor and Legislature remain prepared to respond to TANF reauthorization in special session if it occurs in the interim between the 79th and 80th Sessions.

CHARGE FIVE: Monitor the implementation of SB 669, 78th Legislature, which mandates police presence with Child Protective Services workers during priority calls. The study should include, at minimum, the impact on victims, parent cooperation and local law enforcement availability.

Background

In 1974, CPS was required to notify law enforcement of all reports of abuse and neglect. In 1995, the law was amended to require that CPS and law enforcement conduct joint investigations of serious physical abuse or sexual abuse cases. In 1997, CPS was required to establish contracts with law enforcement to conduct civil child abuse investigations. The problem with the statute was that no law enforcement entities were willing to contract to provide these investigations, and the legislation expired in 2001.

In 2003, Senate Bill (SB) 669 amended the Texas Family Code §261.301 (requiring that immediately on receipt of a report of serious physical or sexual abuse, the department shall notify the appropriate local law enforcement agency of the report) and the Code of Criminal Procedure Art. 2.27 (requiring that as soon as possible after being notified by the department of the report, but not later than 24 hours after being notified, a peace officer shall accompany the department investigator in initially responding to the report) to require law enforcement to accompany a CPS investigator on initial contact for all Priority 1 reports of serious physical abuse or sexual abuse.

At the time SB 669 was passed, the Department of Family and Protective Services (DFPS), formerly Department of Protective and Regulatory Services (DPRS), and local law enforcement were required to conduct a joint investigation of a report of serious physical or sexual abuse of a child. Local law enforcement and DFPS were not expressly required to respond together to a report of serious physical or sexual abuse of a child. SB 669 changed this and required local law enforcement to accompany DFPS caseworkers when responding to Priority I reports of abuse, which concern children who appear to face an immediate risk of abuse or neglect that could result in death or serious harm.

With the implementation of SB 669, CPS directed field staff to:

- Contact local law enforcement and local prosecutors regarding SB 669 requirements;
- Continue to ensure law enforcement is notified of all reports that meet the requirement for a joint initial contact; and
- Document in individual cases the efforts made to coordinate the joint initial contact.

Some of the designed changes to the CPS automated system effective September 1, 2004:

- Was the joint initial contact requested by the CPS investigation?
- Was the initial contact conducted jointly?
- If the initial contact was not made jointly, what is the reason?

After surveying several police departments and sheriffs departments in major cities, the Committee found that the vast majority of the departments are not in compliance with the provisions of SB 669. The departments cited a lack of funding, manpower, and coordination with CPS as reasons for non-compliance. Two police departments that were in compliance and were willing to testify were the McAllen Police Department and the Plano Police Department. The committee did not receive testimony from the McAllen Police Department at the hearing.

The Plano Police Department recounted its experiences with the provisions of SB 669 as follows:

- When Priority One calls are received at the Collin County Child Advocacy Center (CCCAC) by a CPS employee designated to receive such calls, the designee contacts the on-call detective assigned to the Family Violence Unit. Depending upon the information available at that time, the detective would either make contact with the parties involved himself, or request that dispatch send a patrol unit to respond and investigate further.

- Overall, a pattern has evolved during the course of addressing child abuse cases. It has been noted that there is greater satisfaction for victims, higher degrees of parental cooperation, and less negative feedback when the plainclothes detective makes the initial and follow-up contacts. The reverse appears to be the case when it is a uniformed patrol officer making the initial contact. It has been theorized that individuals are less forthcoming about what happened in the home when uniformed police arrive first, because individuals involved at the site of the call have a perception that an imminent arrest and incarceration is more likely than when plainclothes officers and CPS workers respond. *However, without the help of the patrol division, even fewer members of the detective squads, and an increasingly large case load, CPS would be overwhelmed and the result would be a breakdown of the process.*

- The Plano Police Department has noted that the biggest impact of SB 669 has been the increase in man-hours spent on initial responses, whether by patrol units or plainclothes detectives. This increase appears to be tied to the voluminous paperwork CPS workers must complete while officers are required to remain on the scene. Often, an officer finishes his or her investigation long before the CPS caseworker, making his or her presence a waste of valuable time if the scene has been deemed safe. As a result, these calls prevent officers from assisting in other cases.

Conclusion

Law enforcement departments around the state are failing to meet the requirements of SB 669. The Legislature should examine the problems these departments report in the administration of the law, and consider whether the statute should be revisited during the 79th Session. Specifically, the Legislature should determine whether a redesign of the intake priority system associated with SB 669 is necessary to improve efficient use of scarce law enforcement resources (as discussed in the section of this report covering Charge 2), and whether the law should be changed to better leverage law enforcement participation in investigations, while minimizing the time it spends on non-essential aspects of CPS investigations.

RECOMMENDATIONS

1. The Committee recommends that law enforcement personnel no longer be required to stay on the scene of a Priority One call after that scene has been secured, and the officer has completed his investigation. Currently, valuable law enforcement time is spent while officers wait for CPS caseworkers to complete their substantial paperwork. If the scene is no longer considered dangerous to the caseworker or those present in the home, law enforcement should be allowed to leave and assist others.

2. The Committee recommends that a law enforcement department's failure to comply with an amended SB 669 should result in sanctions.

3. The Committee recommends that CPS provide better, standardized training for intake personnel to improve the proper and consistent classification of calls requiring law enforcement escorts. There appears to be a wide variation in how CPS comes to the conclusion that a particular call for service is truly a Priority One issue. Therefore, it is recommended that intake personnel should receive standardized training to ensure more uniform, reliable results.

4. The Committee recommends that CPS review whether investigative paperwork can be reduced. Caseworkers spend much of their time on compliance with CPS documentation. Any reduction in this work can free the caseworker to handle more cases in a shorter amount of time. Documentation reductions should not be made at the expense of the ability to do thorough investigations, nor should they impair prosecution of perpetrators. The Committee recommends that CPS complete a review of its investigative paperwork requirements by the next Interim.

5. The Committee recommends that CPS workers be freed from filling out paperwork that family members themselves can complete after a Priority One call. While this requirement would allow caseworkers to focus on paperwork that only they can complete, it has the added benefit of making those involved in a CPS case part of the solution to their problem. Of course, caseworkers must continue to assist those who are unable to fill out such documents.

6. The Committee recommends that law enforcement and CPS continue to work together to identify strategies that enhance cooperation in their mission to protect children.

CHARGE SIX: Monitor agencies and programs under the committee's jurisdiction.

Background

The Texas Health and Human Services Commission (HHSC) is to provide the leadership and direction necessary to create an efficient and effective health and human services system for Texas. Currently, the state's health and human services agencies spend nearly $20 billion per year to administer more than 200 programs, employ 46,000 state workers, and operate from more than 1,000 locations across the state.

In 2003, the Texas Legislature mandated an unprecedented transformation of the state's health and human services system to create an integrated, effective, and accessible health and human services enterprise that protects public health and brings high quality services and support to Texans in need. The transformation blends 12 agencies into five to create a system that is client-centered, efficient in its use of public resources, and focused on results and accountability. Commenting on the transformation, current HHSC Executive Commissioner Albert Hawkins stated, “I'm convinced that we can do a better job for less money, and I believe our efforts are already improving services, streamlining administrative operations and increasing accountability. We are looking beyond agency lines to develop a service-delivery system focused on clients and more responsive to local needs.”

The new state system includes four new departments, which operate under the oversight of the Health and Human Services Commission. The four new departments are:

- **The Department of Family and Protective Services** includes the programs previously administered by the Department of Protective and Regulatory Services. DFPS began services Feb. 1, 2004.
- **The Department of Assistive and Rehabilitative Services** combines the programs of the Texas Rehabilitation Commission, Commission for the Blind, Commission for the Deaf and Hard of Hearing and Interagency Council on Early Childhood Intervention. DARS began services March 1, 2004.
- **The Department of Aging and Disability Services** consolidates mental retardation and state school programs of the Department of Mental Health and Mental Retardation, community care and nursing home services programs of the Department of Human Services, and aging services programs of the Texas Department of Aging. DADS is scheduled to begin services Sept. 1, 2004.
- **The Department of State Health Services** includes the programs provided by the Texas Department of Health, the Texas Commission on Alcohol and Drug Abuse and the Health Care Information Council, plus mental-health community services and state hospital programs operated by the Department of Mental Health and Mental Retardation. DSHS is scheduled to begin services Sept. 1, 2004.

HHSC will expand its role to coordinate administrative functions across the system, provide eligibility determination for health and human services programs, and administer Medicaid and the Children's Health Insurance Program.

HHSC supplied the following data regarding the its its progress on consolidation.

CONSOLIDATION AND REORGANIZATION

House Bill 2292 passed by the 78th Legislature set a new direction for improving the delivery of health and human services for Texas, beginning a period of unprecedented change and transformation of health and human services in Texas. The guiding principles for these changes are: focus on service delivery; foster direct management accountability; reorganize around common service delivery; promote integration and consistency; and establish appropriate span of control.

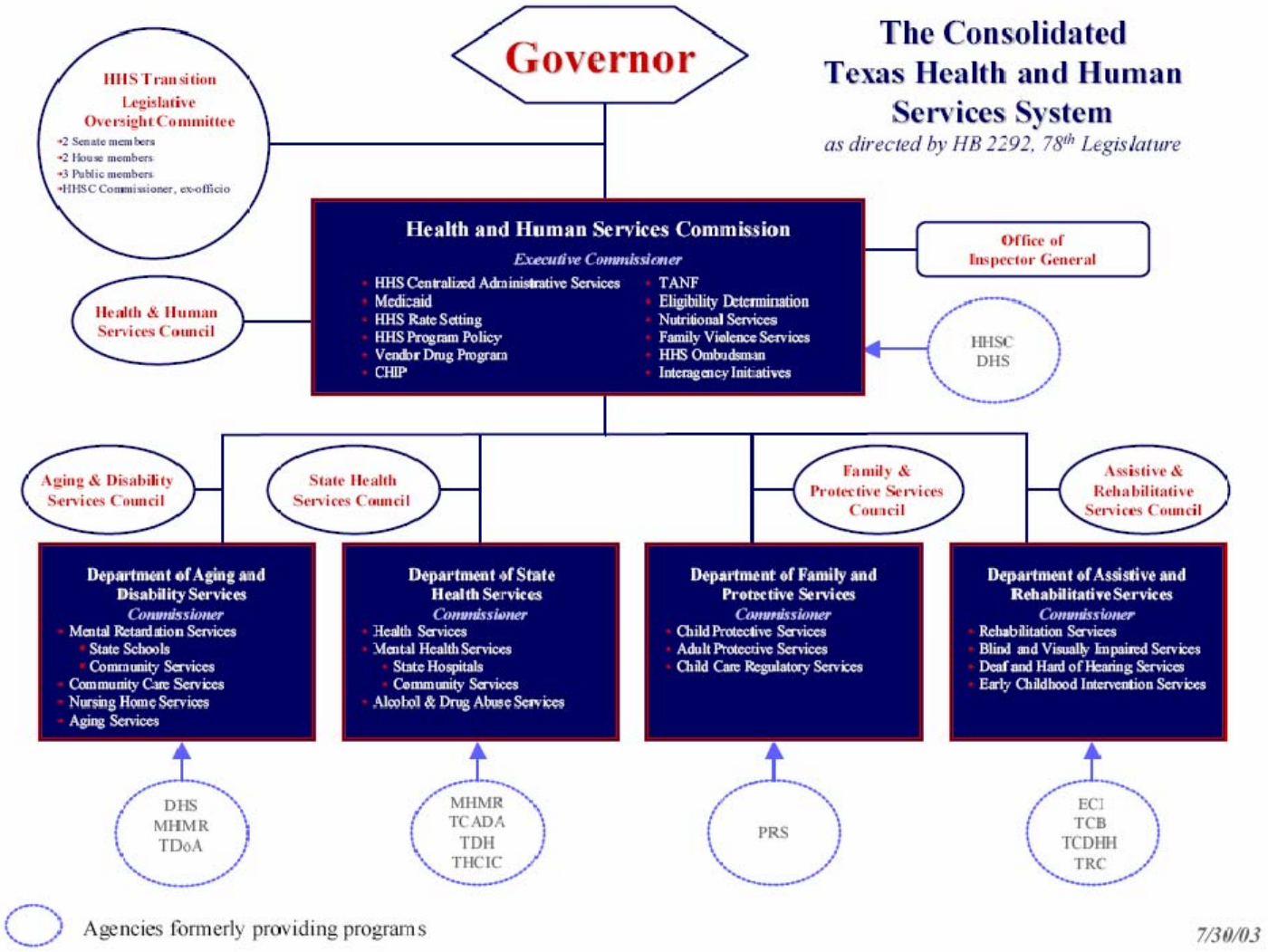
House Bill 2292 Activities

House Bill 2292 outlined a four-phased approach to transformation. The first two phases, planning and integration, were completed in September 2004 when the four-agency structure, under the oversight of the Health and Human Services Commission (HHSC), became fully operational. The final two phases, optimization and transformation, are ongoing and will continue into FY 2006-2007.

HHS Agency Organizations

Creation of the following four new agencies with standardized organizational structures designed to focus on service delivery was successfully completed this biennium.

- Department of Family and Protective Services (launched February 2004)
- Department of Assistive and Rehabilitative Services (launched March 2004)
- Department of Aging and Disability Services (launched September 2004)
- Department of State Health Services (launched September 2004)


Governor
The Consolidated Texas Health and Human Services System
as directed by HB 2292, 78th Legislature
HHS Transition Legislative Oversight Committee
•2 Senate members
•2 House members
•3 Public members
•HHSC Commissioner, ex-officio
Health and Human Services Commission
Executive Commissioner
HHS Centralized Administrative Services
Medicaid
HHS Rate Setting
HHS Program Policy
Vendor Drug Program
CHIP
TANF
Eligibility Determination
Nutritional Services
Family Violence Services
HHS Ombudsman
Interagency Initiatives
Office of Inspector General
HHSC
DHS
Health & Human Services Council
Aging & Disability Services Council
State Health Services Council
Family & Protective Services Council
Assistive & Rehabilitative Services Council
Department of Aging and Disability Services
Commissioner
Mental Retardation Services
State Schools
Community Services
Community Care Services
Nursing Home Services
Aging Services
Department of State Health Services
Commissioner
Health Services
Mental Health Services
State Hospitals
Community Services
Alcohol & Drug Abuse Services
Department of Family and Protective Services
Commissioner
Child Protective Services
Adult Protective Services
Child Care Regulatory Services
Department of Assistive and Rehabilitative Services
Commissioner
Rehabilitation Services
Blind and Visually Impaired Services
Deaf and Hard of Hearing Services
Early Childhood Intervention Services
DHS
MHMR
TDoA
MHMR
TCADA
TDH
THCIC
PRS
ECI
TCB
TCDHH
TRC
Agencies formerly providing programs
7/30/03

Consolidation of Administrative Functions

Along with the reorganization of health and human services agencies, a number of consolidation activities have occurred to improve coordination and streamline administrative functions. The following areas are included in these efforts.

- Human Resources Management
- Office of Civil Rights
- Procurement
- Planning and Evaluation
- Office of Inspector General
- Financial Services
- Information Technology
- Legal Services
- Ombudsman
- Leasing and Facilities Management

Integrated Eligibility and Enrollment Services

House Bill 2292 directs HHSC to examine ways to streamline eligibility determination processes. Using the guiding principles for business decisions promulgated by HHSC for the HHS Transformation, eligibility and enrollment services as currently delivered were thoroughly examined, an optimized in-house model has been developed and will be compared to an outsourced model in order to determine how to achieve the goal of providing efficiently delivered, high quality services that support the mission of the health and human services agencies in Texas.

The HHSC business case indicated that call centers would be a cost effective way to determine financial eligibility for a variety of services, including Medicaid, food stamps, Temporary Assistance for Needy Families (TANF) and long-term care. Greater coordination and integration of the eligibility and enrollment functions means clients will be able to access a variety of services with one application. Integrating those functions more efficiently will result in easier access for clients and savings that could be better spent on direct client services.

The HHSC plan creates a menu of options for consumers by allowing Texans to apply for state services in person, through the Internet, over the phone and by fax or mail. Call centers to receive and process applications would be established, and consumers would be able to track the progress of their applications through an automated phone system. In addition, consumers would be able to complete most re-certifications and make basic changes, such as addresses, without an office visit by using the phone, mail or Internet.

A Request for Proposals (RFP) for integrated eligibility and enrollment services was published in July 2004 with a response date of September 2004. Responses have been received and an in-depth evaluation is underway. The proposal evaluation

includes comparing the models proposed to the optimized in-house model in order to determine best value for the state.

Business Process Improvements

In addition to consolidating similar functions across agencies, business process improvements such as the implementation of the Health and Human Services Administrative System (HHSAS) have further strengthened efficiency and accountability. The System HHSAS includes financial applications from the Integrated Statewide Accounting System (ISAS), PeopleSoft Financial Management, and PeopleSoft Human Resources Management System (HRMS). HHSAS was designed to streamline and standardize administrative services, automate business processes and provide consistency in reporting across the health and human services system. This implementation is the largest and most comprehensive administrative systems project ever undertaken in Texas state government. This project was completely implemented across the system September 1, 2004, three years earlier than predicted and costing $32 million less than original projections.

Improved Access to Services

Another significant accomplishment resulting in improved access to services is the completion of the statewide rollout of the 2-1-1 system, which provides an abbreviated dialing code for information and referrals about health and human services throughout the state. The service is operated by a public-private partnership between the Texas Health and Human Services Commission and local government and community groups. In 2003, the 2-1-1 statewide system handled 1.5 million calls from Texans seeking help and for 2004, the call volume is projected to increase to 2.5 million calls.

Section 28 Reductions

While improving direct client services is the ultimate goal of consolidation efforts, many of the initiatives mandated by H.B. 2292 are expected to produce savings as well. The General Appropriations Act includes a rider, Section 28, Special Provisions Related to All Health and Human Services, directing the Health and Human Services Commission to identify savings from H.B. 2292 consolidation and policy initiatives. The savings required were identified to balance the FY2004-2005 Appropriations bill and duplicate a significant amount of administrative reductions made elsewhere in the General Appropriations Act. As required by the Section 28 rider, a final report on GR savings from H.B. 2292 initiatives will be submitted to the Governor, the Legislative Budget Board, the Comptroller of Public Accounts, and the State Auditor's Office by February 1, 2005. Specific savings related to H.B. 2292 implementation also will be included in the second submission of the Consolidated Budget in January 2005.

ELEMENTS DRIVING THE FUNDING NEEDS OF HHS PROGRAMS

Some of the major factors affecting demand for HHS services include the economy and demographic trends which, in turn, affect caseload in various programs including Medicaid and CHIP, the uninsured population, and increasing costs for services.

Economic Outlook

With key variables such as low interest rates, high productivity levels and federal fiscal policy holding steady, the national economy was able to overcome the most adverse impacts of the September 11, 2001 terrorists attacks in a relatively short time. Based on a general reading of the Texas Comptroller's Spring 2004 Economic Forecast, it could be concluded that the overall outlook for the Texas economy for the 2004 – 2007 period appears to be positive; however, the rate of unemployment is projected to remain at approximately six percent each year during the FY 2004 – FY 2007 period which presents an area of concern.

Impact of Demographics and Demand for Services

Agencies in the HHS system will feel the additional pressure resulting from the two major trends of demographic change in Texas. One is the projected growth in total population. From 2005 to 2009 the total population is expected to grow by 1.3 million from 22.5 to 23.8 million, a growth rate of 6 percent. Certain programs related to public health, prevention and protective services may be impacted by population growth. The other key trend is the projected higher-than-average growth in the non-Anglo population and in the number of persons age 65 and older. The relative incidence of conditions such as poverty and lack of private health insurance is higher among non-Anglos. This could possibly result in greater demand for certain means-tested services, such as Medicaid, CHIP, TANF, and Food Stamps. It may also increase demand for primary health care services that are funded by a combination of state, federal and local funds. In 2006, the leading edge of the baby boom generation (those born in 1946) will turn 60. The population age 65 and over is the group that will experience the highest growth rate from 2005 to 2040. This population is expected to grow from 2.3 million to 6.4 million, a growth rate of about 178 percent. Since the incidence of disability is higher among the elderly, the growth of this segment of the population could exert additional pressure on long-term care programs that meet the needs of low-income persons with disabilities and/or chronic illness. The Kidney Health Care program will likely be affected by the growth of the Hispanic population, which has a higher incidence of diabetes, as well as the aging of the Texas population in general. Similarly, the HIV medications program will likely be affected by higher incidence among African-Americans and their need to access treatment, and also by the increased effectiveness of newer medications used to treat HIV, which prolong the lives of HIV-positive Texans.

Caseload and Cost

Medicaid caseload is projected to average approximately 3.6 million recipients in FY2007, with an average of 2.75 million in the children's risk groups (non-disabled

children aged 0 – 18, and TANF recipients up to age 21). This caseload includes 12-month continuous eligibility for children age 0 – 18, beginning FY 2006. CHIP caseload is projected to average approximately 472,000 in FY 2007. This caseload includes 12-month continuous eligibility, beginning FY 2006.

Table I.2

Medicaid Caseload

Premium Strategy Risk Group	FY2004	FY2005	FY2006	FY2007
Aged & Medicare Related	320,882	325,375	330,581	335,870
Disabled and Blind	221,711	235,235	246,997	259,347
TANF Child	341,435	326,070	329,331	332,295
TANF Adult	89,927	83,632	84,468	85,229
Pregnant Women	112,234	128,350	136,051	144,214
Newborns	135,922	150,738	165,811	177,418
Expansion Children	666,116	764,701	919,104	1,049,386
Federal Mandate Children	729,103	858,883	1,039,224	1,193,276
Medically Needy	43,731	52,464	58,754	62,854
Risk Group Total	**2,661,060**	**2,925,447**	**3,310,321**	**3,639,888**
Medicaid Children	**1,872,575**	**2,100,392**	**2,453,470**	**2,752,375**

Table I.3

CHIP Caseload

CHIP General Revenue Group	FY2004	FY2005	FY 2006	FY 2007
Federally Funded	384,563	327,200	368,284	439,200
Legal Immigrants	16,708	15,952	18,029	21,496
TRS Eligible	8,594	8,697	9,537	11,284
GR Group Total	**409,865**	**351,849**	**395,850**	**471,980**

In forecasting the Medicaid program for the LAR, the base forecast held both caseload and costs at the FY 2005 level, an average of 2.9 million recipients. As part of the exceptional items requested, caseload growth was projected using forecast models and trends applied to data through the month of July 2004. Both caseload and cost trends are determined by time-series analyses of historical data, with consideration of external factors such as policy impacts (for example, the change to 12-month continuous eligibility and reduction in hospital and/or provider rates).

Table II.1

HHS Agency Biennial Funding Comparison
FY04-05 and FY06-07
(in millions)

Agency	FY04 Expended-FY05 Budgeted		FY06-07 Requested[1]		Biennial Change	
	GR/GR-D	AF	GR/GR-D	AF	GR/GR-D	AF
DADS	$ 3,596.9	$ 9,512.8	$ 4,895.6	$ 12,392.0	$ 1,298.7	$ 2,879.2
DARS	190.7	916.2	192.6	980.3	1.9	64.1
DFPS	551.7	1,728.9	752.0	2,003.2	200.3	274.3
DSHS	2,148.9	4,689.9	2,217.6	4,730.6	68.7	40.7
HHSC	9,435.7	26,779.3	13,446.8	35,421.3	4,011.1	8,642.0
Total, HHS	**$ 15,923.9**	**$ 43,627.1**	**$ 21,504.6**	**$ 55,527.4**	**$ 5,580.7**	**$ 11,900.3**

Note: Totals may not add due to rounding. [1]Requested includes baseline and exceptional items.

Table II.2

HHS Agency Baseline and Exceptional Request
FY06-07
(in millions)

Agency	Baseline Request		Exceptional Request		Total Request	
	GR/GR-D	AF	GR/GR-D	AF	GR/GR-D	AF
DADS	$ 3,831.2	$ 9,732.5	$ 1,064.4	$ 2,659.5	$ 4,895.6	$ 12,392.0
DARS	184.4	943.6	8.2	36.7	192.6	980.3
DFPS	536.0	1,669.4	216.0	333.8	752.0	2,003.2
DSHS	2,025.6	4,450.6	192.0	280.0	2,217.6	4,730.6
HHSC	9,799.4	26,439.7	3,647.4	8,981.7	13,446.8	35,421.4
Total, HHS	**$ 16,376.6**	**$ 43,235.8**	**$ 5,128.0**	**$ 12,291.7**	**$ 21,504.6**	**$ 55,527.5**

Note: Totals may not add due to rounding.

Table II.3

Comparison of HHS Agency Baseline Requests
FY04-05 and FY06-07
(in millions)

Agency	FY04 Expended-FY05 Budgeted		FY06-07 Baseline		Biennial Change	
	GR/GR-D	AF	GR/GR-D	AF	GR/GR-D	AF
DADS	$ 3,596.9	$ 9,512.8	$ 3,831.2	$ 9,732.5	$ 234.3	$ 219.7
DARS	190.7	916.2	184.4	943.6	(6.3)	27.4
DFPS	551.7	1,728.9	752.0	2,003.2	200.3	274.3
DSHS	2,148.9	4,689.9	2,025.6	4,450.6	(123.3)	(239.3)
HHSC	9,435.7	26,779.3	9,799.4	26,439.7	363.7	(339.6)
Total, HHS	**$ 15,923.9**	**$ 43,627.1**	**$ 16,592.6**	**$ 43,569.6**	**$ 668.7**	**$ (57.5)**

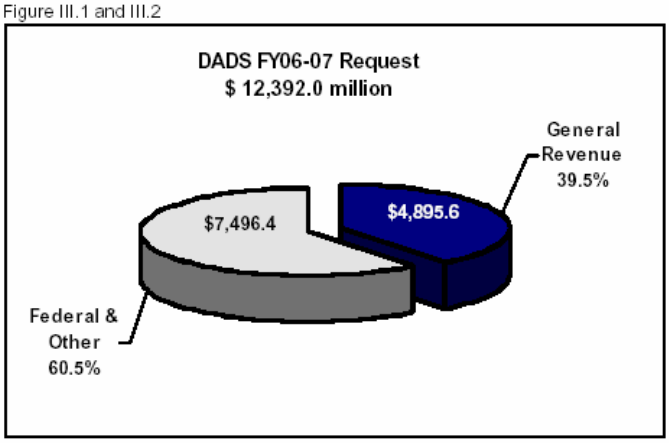
Note: Totals may not add due to rounding.

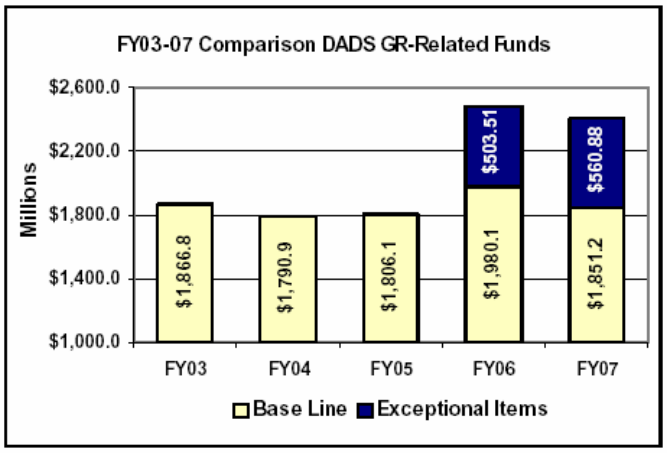
Department of Aging and Disability Services (DADS)

General Functions

In accordance with H.B. 2292, 78th Legislature, Regular Session, the Department of Aging and Disability Services (DADS) became operational on September 1, 2004. The new agency consolidates the programs and activities of three health and human services agencies: the mental retardation services and state school programs of the Department of Mental Health and Mental Retardation, the community care, nursing facility, and long-term care regulatory services of the Department of Human Services; and the aging services and programs of the Department on Aging.

Figure III.1 and III.2





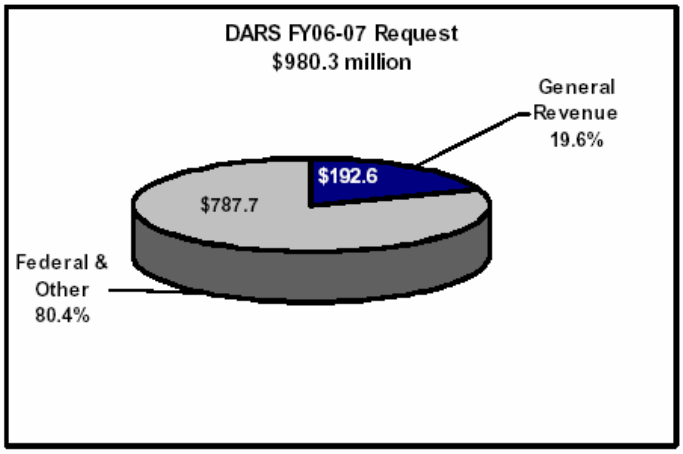
DADS' mission is to provide a comprehensive array of aging, disability, and mental retardation services, supports, and opportunities that are easily accessed in local communities. To that end, DADS will administer human services programs for older people, people with physical disabilities (both young and old) and people with cognitive disabilities (mental retardation). DADS will also license and regulate providers of these services through a separate division that reports directly to the Commissioner.

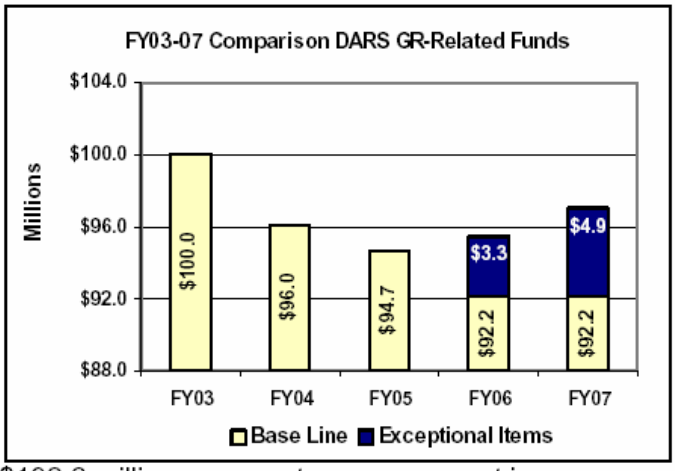
Department of Assistive and Rehabilitative Services (DARS)

General Functions

The Department of Assistive and Rehabilitative Services (DARS) was created by HB 2292, 78th Legislature. DARS began operations March 1, 2004 through the merger of agencies providing services to Texans with disabilities; Texas Rehabilitation Commission, Commission for the Deaf and Hard of Hearing, Interagency Council on Early Childhood Intervention and Texas Commission for the Blind. The agency's primary goals are: to assist people with disabilities to secure and maintain employment or to live as independently as possible, work with families with children who have developmental delays to improve the quality of their lives, and provide disability determination for the Supplemental Security Income (SSI) and Social Security Disability Insurance (SSDI) programs.

Figure III.3 and III.4





Summary of Budget Request

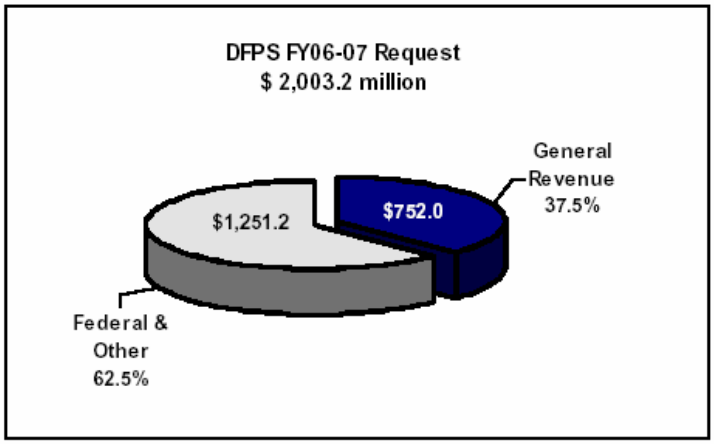
The FY 2006-07 LAR base and exceptional items total $980.3 million, a seven percent increase in All Funds over the FY 2004-05 biennium. The base request totals $943.6 million, and exceptional items total $36.7 million. The GR-related base and exceptional item request for FY 2006-07 of $192.6 million represents a one percent increase over FY 2004-05. Federal and other funds requested have increased by 8.6 percent over FY 2004-05 levels for a total of $787.7 million in FY 2006-07.

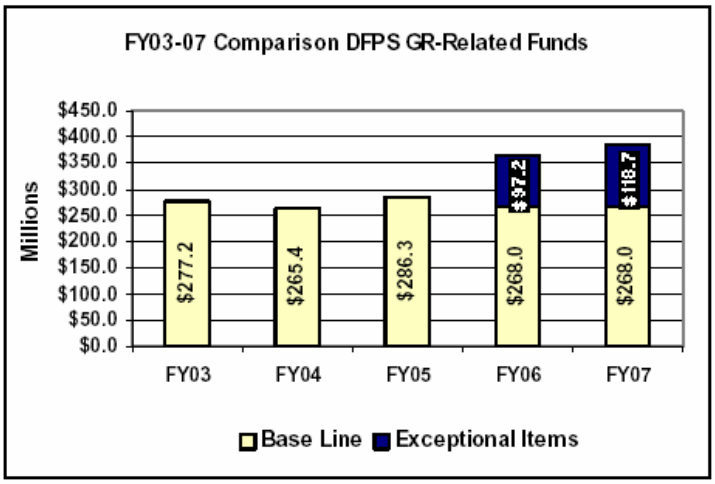
Department of Family and Protective Services (DFPS)

General Functions

The Department of Family and Protective Services (DFPS) was created by H.B. 2292 as part of a new Health and Human Services system that will serve consumers better, increase administrative efficiency and emphasize accountability. DFPS comprises the programs and duties of the former Department of Protective and Regulatory Services and began its redirected operation February 1, 2004. DFPS provides protective services to children, persons with disabilities, and the elderly. DFPS's mission is to protect the unprotected from abuse, neglect, and exploitation. The agency is also responsible for the regulation of childcare services and child-placing agencies throughout the state. These services are provided through an integrated service delivery system that maximizes resources for prevention, early intervention, and aftercare.

Figure III.5 and III.6





Summary of Budget Request

The FY 2006-07 LAR base and exceptional items total $2 billion, a 15.9 percent increase in All Funds over the FY 2004-05 biennium. The base request totals $1.7 billion and exceptional items total $333.7 million. The GR-related base and exceptional item request for FY 2006-07 of $752 million represents a 36.3 percent increase over FY 2004-05. Federal and other funds requested have increased by 6.3 percent from FY 2004-05 levels for a total of $1.3 billion in FY 2006-07.

Exceptional Items

The agency has nine exceptional items to restore and maintain current services.

- Two items restore the

reduction to the FY 2005 rates for foster care and adoption subsidies and address caseload growth in these two federal entitlement programs. Together these two items total $122.2 million.

- There are three items to restore the general revenue base reduction, restore a federal funding reduction to the base, and maintain the funding necessary to prevent a reduction to direct delivery positions. These items total $58.2 million and maintain 620 FTEs each year.
- To address Executive Order RP 33 calling for the reform of the Adult Protective Services (APS) program, there is an exceptional item representing a preliminary estimate of changes to the APS in-home program. This preliminary item totals $12.1 million and proposes 86 new FTEs in FY 2006 and an additional 31 in FY 2007 to further reduce caseload per worker. An updated funding request is being developed and will be presented to the Legislature when it has been completed.
- There are three exceptional items to maintain current caseloads in Child Protective Services (CPS), APS MH/MR Investigations, and Statewide Intake. These items total $35.6 million and propose 333 new FTEs in FY 2006 and an additional 349 in FY 2007. A supplemental request for CPS will be included in the Consolidated Budget to be submitted in early January 2005.

The agency proposes nine separate exceptional items totaling $105.7 million for activities considered as mission critical enhancements. These exceptional items propose 83.9 new FTEs in FY 2006 and an additional four in FY 2007.

Other Issues

- Adult Protective Services (APS) Reform: Under Executive Order RP 33, issued April 14, 2004, HHSC is directed to oversee the systemic reform of the APS program. An implementation plan was issued July 12, 2004 and a full accounting of progress is due in a final report on RP 33, due November 1, 2004. This LAR anticipates the transfer of the Guardianship program to another agency and includes the transfer of Guardianship FTEs to the APS in-home program beginning in FY 2005.
- Child Protective Services (CPS) Reform: Executive Order RP 35, issued July 2, 2004 directed HHSC to review and reform the CPS program. An implementation plan was submitted September 29, 2004. A final report that will include a more comprehensive review and implementation plan is due December 31, 2004. This LAR does not contain base or exceptional item requests that address this reform because it was submitted before the September 29, 2004 report. The budget request will be revised to reflect additional funding requirements identified to implement the reform plan.

The DFPS Legislative Appropriations Request can be found online at http://www.tdprs.state.tx.us/About/Financial_and_Budget_Information/default.asp

Department of State Health Services (DSHS)

General Functions

The Texas Department of State Health Services (DSHS) was officially launched on September 1, 2004, combining the legacy functions of the Department of Health, the Commission on Alcohol and Drug Abuse, the mental health component of the Department of Mental Health and Mental Retardation and the Texas Health Care Information Council. The agency's mission is to promote optimal health for individuals and communities and to provide effective public health, clinical services, mental health, and substance abuse services to Texans. DSHS fulfills its mission through a complex array of programs and services that fall into four general areas.

- **Preparedness and Prevention Services.** The range of activities related to this function includes improving the state's capacity to respond to bioterrorism threats, maintaining vital records and health registries, immunizing Texas children, addressing the health needs of specific groups such as children with special health care needs and kidney health patients, and operating a laboratory for health-related testing statewide.
- **Community Health Services.** Services provided in this area cover primary care and indigent health services, WIC nutrition services, women and children's health services, family planning services, community based mental health and substance abuse services as well as tobacco education and enforcement activities.
- **Hospital Facilities Management and Services.** DSHS is responsible for operating the state's mental health hospitals, the Texas Center for Infectious Diseases and the South Texas Health Care System.
- **Consumer Protection.** DSHS is the state authority for enforcing consumer health protection in areas such as food and drug safety, environmental health and radiation control. The Department is also responsible for licensing health care professionals and facilities.

Conclusion

HHSC continues to undergo a period of dramatic change during its consolidation under HB 2292. Continued monitoring of the agency's progress during this process is essential if the Legislature is to provide rapid, policy-level responses to emerging problems within the new organization. The promises of increased efficiency, reduced costs, and improved services for Texans guide this undertaking, but it proceeds during a period of crisis. Two large HHSC agencies under HHSC -- CPS and APS -- are in the midst of fundamental service breakdowns that have led to serious injuries and the loss of life. These agencies' troubles are not the result of consolidation, but it remains to be seen whether the new HHSC umbrella organization will bring relief to them any more expeditiously than its predecessor. However, it should be noted that HB 2292 provided for the use of the Office of the Inspector General to thoroughly and rapidly investigate CPS and APS after the Governor issued Executive Orders 33 and 35. In turn, the OIG's findings were instrumental in the Committee's work on Charge Two in this report.

RECOMMENDATIONS

1. The Committee recommends that the Legislature continue monitoring the consolidation and reorganization of the Health and Human Services Commission to ensure that quality services are efficiently and effectively provided to Texans.

References

[1] Governor Rick Perry, *Executive Order RP 33*, April 14, 2004, available at: http://www.governor.state.tx.us/divisions/press/exorders/rp33.
[2] National Center on Elder Abuse (NCEA), *National Elder Abuse Incidence Study (NEAIS)*, available at: http://www.elderabusecenter.org/.
[3] NCEA, *Abuse Statistics,* available at: http://www.elderabusecenter.org/default.cfm?p=abusestatistics.cfm.
[4] *Ibid.*
[5] *Ibid.*
[6] Testimony before the Committee revealed that there is considerable disagreement about whether APS policy is indeed adequate. Other subsections of this report address APS policy concerns.
[7] Governor Rick Perry, *Executive Order RP 35*, July 2, 2004, available at: http://www.governor.state.tx.us/divisions/press/exorders/rp35.
[8] Center for Public Policy Priorities (CPPP), July 20, 2004.
[9] CPPP, July 20, 2004, citing U.S. Department of Health and Human Services, Administration on Children and Families, National Child Abuse and Neglect Data System, *Child Maltreatment*, Table 2.8, 2002.
[10] *Ibid.*
[11] As reported by CPS.
[12] Texas Department of Family and Protective Resources (TDFPS), Supervisor Job Description.
[13] *Ibid.*
[14] TDFPS, *CPS Reform Presentation Overview*, October 7, 2004, available at: http://www.hhsc.state.tx.us/news/presentations/100704_HCHS_CPSR.pdf
[15] TDFPS, *Implementation Plan, Executive Order RP 35*, September 29, 2004, available at: http://www.hhs.state.tx.us/news/reports/CPS_Implementation_Plan.shtml#_Toc84250052
[16] Caldwell, *Emerging Practices in the Prevention of Child Abuse and Neglect*, 8, 1992.
[17] *Ibid*.
[18] Testimony before the House Committee on Human Services in public hearing.
[19] The Ounce of Prevention Fund, *Prevention Pays,* available at: http://www.ounce.org/pdf/prevention_pays.pdf.
[20] New Jersey Department of Human Services, *The Cost of Abuse and Neglect*, available at: http://www.state.nj.us/humanservices/cap/capques5.html.
[21] Partnership for a Drug-Free Washington, *Facts about Drug Use in Washington State*, 2001.
[22] Children's Defense Fund, booklet, Page XII, 2002.
[23] E.J. Hatziandreu, R.E. Brown and MT. Halpern, Centers for Disease Control, 1992.
[24] Olds, David, et al., *Prevention of Child Abuse and Neglect: A Randomized Trial of Nurse Home Visitation*, Pediatrics, *78,* 65-78, 1986.
[25] Caldwell, 7.
[26] *Ibid.*
[27] Kelley, B Thomberry, TP & Smith, CA, *In the Wake of Childhood Violence*, National Institute of Justice, Washington D.C. 1997.
[28] Moore, Elizabeth & Armsden, Gay & Gogerty, Patrick L., *A Twelve Year Follow-up Study of Maltreated and At-Risk Children Who Received Early Therapeutic Child Care*. Child Maltreatment*, 3(1),* 3-16, 1998.
[29] Department of Social and Health Services, Children's Administration's Office of Research, unpublished study, funded by the National Institutes of Justice*,* June 26, 2000.
[30] *See* Legislative Budget Board (LBB), *Policy Letter for Legislative Appropriations Request*, 2004, available at: : http://www.lbb.state.tx.us/LAR/LAR-79R_Policy_Letter.pdf.
[31] Healthy Families America, *Program Facts and Features*, available at: http://www.healthyfamiliesamerica.org/downloads/hfa_facts_features.pdf.
[32] Child Welfare League of America (CWLA), *Substance Abuse and Child Abuse*, 2001, available at: http://www.cwla.org/articles/cv0109sacm.htm.
[33] Office of National Drug Control Policy (ONDCP), 2001.
[34]National Clearinghouse on Child Abuse and Neglect (NCCAN), *Collaborating with Your Community,* available at: http://nccanch.acf.hhs.gov/topics/prevention/develop/collaborate/index.cfm.
[35] *Ibid.*
[36] *Ibid.*
[37] *Ibid.*
[38] *Ibid.*
[39] *Ibid.*
[40] *Ibid.*
[41] *Ibid.*
[42] *Ibid.*
[43] *Ibid.*

[44] *Ibid.*
[45] *Ibid.*
[46] *See* Greater Texas Community Partners (GTCP) for more information on the program, available at: http://www.gtcp.org/index1.htm.
[47] TDFPS, *About Prevention and Intervention*, available at: http://www.dfps.state.tx.us/Prevention_and_Early_Intervention.
[48] TDFPS, *Statewide Information System*, available at: http://www.tdprs.state.tx.us/About/State_Plan/2005-2009_Plan/06.asp
[49] *See* Virginia Institute for Social Services Training Activities (VISSTA), *Child Abuse and Neglect: Recognizing, Reporting, and Responding for Educators,* available at: http://www.vcu.edu/vissta/training/va_teachers/.
[50] The Annie E. Casey Foundation, *Moving Youth from Risk to Opportunity,* State Profiles of Child Well Being, Kids Count, Data Book, 2004.
[51] TDFPS, *Chafee Foster Care Independence Program,* available at: http://www.tdprs.state.tx.us/Child_Protection/Preparation_For_Adult_Living/chafee.asp.
[52] TDFPS, *Preparation for Adult Living Program (PAL),* available at: http://www.tdprs.state.tx.us/Child_Protection/Preparation_For_Adult_Living/default.asp#mission .
[53] TDFPS, *The Use of Psychotropic Medications for Children and Youth in the Texas Foster Care System,* TDFPS Advisory Committee on Psychotropic Medication report, September 2004.
[54] U.S. Food and Drug Administration (FDA), *Talk Paper, FDA Updates Its Review of Antidepressant Drugs in Children,* August 20, 2004, available at: www.fda.gov/bbs/topics/answers/2004/ans01306.html.
[55] *Ibid.*
[56] *Ibid.*
[57] TDFPS, *Presentation to the Interim Select Committee on Child Welfare and Foster Care*, October 4, 2004, available at: http://www.hhsc.state.tx.us/news/presentations/100404_HISC.pdf.
[58] FDA *Statement on Recommendations of the Psychopharmacologic Drugs and Pediatric Advisory Committees*, September 16, 2004, available at: www.fda.gov/bbs/topics/news/2004/new01116.html.
[59] ACS-Heritage, *Texas Pediatric/Adolescents Drug Review*, September 23, 2004, available at: http://psychrights.org/States/Texas/TexasPediatricDrugReview.pdf..
[60] TDFPS, *The Use of Psychotropic Medications for Children and Youth in the Texas Foster Care System.*
[61] *See* Children's Rights, available at: http://www.childrensrights.org/.
[62] *Ibid*
[63] Urban Institute, *The Cost of Protecting Vulnerable Children III: What Factors Affect States' Fiscal Decisions?*, December 2002; Child population data from U.S. Bureau of the Census, State Population Estimates.
[64] CPPP, *Funding Child Protection in Texas,* October 2004.
[65] *Ibid.*
[66] *Ibid.*
[67] The TDFPS budget in 2004-05 received $437 million in TANF federal funds in HB 1, 25 percent of the agency's total appropriations.
[68] TDFPS, *Children in Paid Foster Care, Monthly Average by Fiscal Year*, Data Book, p. 69, 2003.
[69] In addition to Title IV-E funds received for the state's child welfare agency, the Juvenile Probation Commission and Youth Commission also receive federal IV-E funding.
[70] Catalog of Federal Domestic Assistance, Foster Care –Title IV-E, available at: http://12.46.245.173/cfda/cfda.html.
[71] Targeted Case Management is a service that assists beneficiaries in gaining and coordinating access to necessary medical, social, and educational care and other services appropriate to their needs. It is intended for beneficiaries who do not reside in institutions. The service may be provided as an integral and inseparable part of another covered service, such as a home health agency nurse's preparation of a treatment plan. It may be provided by Medicaid agency staff through utilization review, prior approval or other administrative activities. It may also be provided as a separate service by appropriately qualified case managers. *See* The Kaiser Foundation on Medicaid and the Uninsured, available at: http://www.kff.org/medicaidbenefits/targetedcasemgt.cfm.
[72] CPPP, *Funding Child Protection in Texas,* October 2004.
[73] Comptroller Carole Keeton Strayhorn, *Comptroller Strayhorn: Texas in the Black*, press release, September 23, 2004, available at: http://www.window.state.tx.us/news/40923economy.html.
[74] *See* Legislative Budget Board (LBB), *Policy Letter for Legislative Appropriations Request*, 2004, available at : http://www.lbb.state.tx.us/LAR/LAR-79R_Policy_Letter.pdf.
[75] CPPP, *Funding Child Protection in Texas,* October 2004.
[76] The Heritage Foundation, *Reducing Domestic Violence: How the Healthy Marriage Initiative Can Help*, 2004, available at: http://www.heritage.org/Research/Family/bg1744.cfm.
[77] CPPP, *TANF and Immigrants in the Texas: Lessons for Reauthorization, February 2002.*
[78] *Ibid.*

DEPARTMENT OF HEALTH & HUMAN SERVICES

Public Health Service

Food and Drug Administration
Rockville, MD 20857

TRANSMITTED BY FACSIMILE

Ajit Shetty, M.D.
CEO
Janssen Pharmaceutica, Inc.
1125 Trenton-Harbourton Road
Titusville, NJ 08560-0200

Re: NDA #s 20-272 and 20-588
Risperdal® (risperidone)
MACMIS # 12195

WARNING LETTER

Dear Dr. Shetty:

The Division of Drug Marketing, Advertising, and Communications (DDMAC) has reviewed a "Dear Healthcare Provider" (DHCP) Letter for Risperdal® (risperidone) disseminated by Janssen Pharmaceutica, Inc. on November 10, 2003. DDMAC has concluded that the DHCP letter is false or misleading in violation of Sections 502(a) and 201(n) of the Federal Food, Drug, and Cosmetic Act (Act) (21 U.S.C. 352(a) and 321(n)) because it fails to disclose the addition of information relating to hyperglycemia and diabetes mellitus to the approved product labeling (PI), minimizes the risk of hyperglycemia-related adverse events, which in extreme cases is associated with serious adverse events including ketoacidosis, hyperosmolar coma, and death, fails to recommend regular glucose control monitoring to identify diabetes mellitus as soon as possible, and misleadingly claims that Risperdal is safer than other atypical antipsychotics. The healthcare community relies on DHCP letters for accurate and timely information regarding serious risks and associated changes in labeling and the dissemination of this letter at a time critical to educating healthcare providers is a serious public health issue.

Background

According to the approved product labeling (PI), Risperdal is a psychotropic agent belonging to the chemical class of benzisoxazole derivatives. Risperdal is indicated for the treatment of schizophrenia and for the short-term treatment of acute manic or mixed episodes associated with Bipolar I Disorder. Risperdal is also indicated in combination with lithium or valproate for the short-term treatment of acute manic or mixed episodes associated with Bipolar I Disorder.

Previously, information concerning the risks of hyperglycemia and diabetes appeared in the Adverse Reactions section of the PI under the subheading "Other Events Observed During the Premarketing Evaluation of RISPERDAL®." This section identified diabetes mellitus as an infrequent event (occurring in 1/100 to 1/1000 patients) and polyuria/polydipsia as a frequent event (occurring in at least 1/100 patients). In addition, the Adverse Reactions section of the PI

had a subheading titled "Postintroduction reports" and described hyperglycemia and diabetes mellitus aggravated, including diabetic ketoacidosis, as temporally (but not necessarily causally) related to Risperdal.

In response to post-marketing reports of diabetes mellitus, including some cases that resulted in hospitalization and/or death, FDA evaluated the risk of the development of diabetes mellitus in patients treated with atypical antipsychotics. This evaluation included a thorough review from a number of sources, including clinical trial data, spontaneous post-marketing reports, epidemiological studies, published case series, published clinical pharmacology studies, published preclinical studies, and unpublished studies for clozapine, olanzapine, risperidone, quetiapine, ziprasidone, and aripiprazole. Based on this review, and given the severity of the events reported and the potential to identify those events at an earlier stage with additional monitoring, FDA determined to require the addition of language to the Warnings section of the PI for all atypical antipsychotics regarding the risk of hyperglycemia and diabetes. By letter dated September 11, 2003, FDA notified Janssen (through Johnson & Johnson Pharmaceutical Research & Development, L.L.C.) of the new warning requirement. On November 6, 2003, Janssen submitted supplemental NDAs covering addition of the following information to the Warnings section of the PI for Risperdal:

> Hyperglycemia, in some cases extreme and associated with ketoacidosis or hyperosmolar coma or death, has been reported in patients treated with atypical antipsychotics including RISPERDAL®. Assessment of the relationship between atypical antipsychotic use and glucose abnormalities is complicated by the possibility of an increased background risk of diabetes mellitus in patients with schizophrenia and the increasing incidence of diabetes mellitus in the general population. Given these confounders, the relationship between atypical antipsychotic use and hyperglycemia-related adverse events is not completely understood. However, epidemiologic studies suggest an increased risk of treatment emergent hyperglycemia-related adverse events in patients treated with atypical antipsychotics. Precise risk estimates for hyperglycemia-related adverse events in patients treated with atypical antipsychotics are not available.
>
> Patients with an established diagnosis of diabetes mellitus who are started on atypical antipsychotics should be monitored regularly for worsening of glucose control. Patients with risk factors for diabetes mellitus (e.g., obesity, family history of diabetes) who are starting treatment with atypical antipsychotics should undergo fasting blood glucose testing at the beginning of treatment and periodically during treatment. Any patient treated with atypical antipsychotics should be monitored for symptoms of hyperglycemia including polydipsia, polyuria, polyphagia, and weakness. Patients who develop symptoms of hyperglycemia during treatment with atypical antipsychotics should undergo fasting blood glucose testing. In some cases, hyperglycemia has resolved when the atypical antipsychotic was discontinued; however, some patients required continuation of anti-diabetic treatment despite discontinuation of the suspect drug.

FDA subsequently approved these supplements, and requested that Janssen issue a DHCP letter communicating the important new risk information. FDA also asked Janssen to submit a copy of the letter to the NDA and to the MedWatch program, and reminded Janssen of its reporting requirements under 21 CFR 314.80 and 314.81.

Omission of Material Information

The DHCP letter fails to communicate the fact that information regarding the potential consequences of hyperglycemia and the recommendation of regular glucose control monitoring was added to the PI for Risperdal. Instead, as discussed below, the letter minimizes risks associated with Risperdal and claims that Risperdal is safer than other atypical antipsychotics, when this has not been demonstrated by substantial evidence or substantial clinical experience.

Minimization of Risks/Misleading Comparative Claim

The DHCP letter states:

> Hyperglycemia-related adverse events have infrequently been reported in patients receiving RISPERDAL. Although confirmatory research is still needed, a body of evidence from published peer-reviewed epidemiology research[1,2,3,4,5,6,7,8] suggests that RISPERDAL is not associated with an increased risk of diabetes when compared to untreated patients or patients treated with conventional antipsychotics. Evidence also suggests that RISPERDAL is associated with a lower risk of diabetes than some other studied atypical antipsychotics.

This statement suggests that Risperdal does not increase the risk of diabetes, contradicting the Warning in the revised PI and minimizing the risks associated with the drug including hyperglycemia-related adverse events such as ketoacidosis, hyperosmolar coma, and death, and minimizing the importance of blood glucose control monitoring.

The references cited in the letter do not represent the weight of the pertinent scientific evidence. That evidence, as explained above, indicates an increased risk of hyperglycemia-related adverse events and diabetes with Risperdal. In addition, this statement does not accurately describe the results of the cited studies. Two of the studies[1,8] actually show an **increased** risk of diabetes and hyperglycemia with Risperdal. In the first study, investigators found that the risk for diabetes in the risperidone cohort was higher than in the haloperidol cohort (HR 1.23, 95% 1.01 - 1.5). In

[1] Buse JB, Cavazonni P, Hornbuckle K et al. A retrospective cohort study of diabetes mellitus and antipsychotic treatment in the United States. *J Clin Epidemiology* 2003;56:164-170.

[2] Caro JJ, Ward A, Levinton C and Robinson K. The risk of diabetes during olanzapine use compared with risperidone use: a retrospective database analysis. *J Clin Psychiatry* 2002;63:1135-1139.

[3] Fuller MA, Shermock KM, Secic M and Grogg AL. Comparative study of the development of diabetes mellitus in patients taking risperidone and olanzapine. *Pharmacotherapy* 2003;23(8):1037-1043.

[4] Gianfrancesco F, White R, Wang RH and Nasrallah HA. Antipsychotic-induced type 2 diabetes: evidence from a large health plan database. *J Clin Psychopharmacol* 2003;23(4):328-335.

[5] Gianfrancesco F, Grogg A, Mahmoud R et al. Differential effects of antipsychotic agents on the risk of development of type 2 diabetes mellitus in patients with mood disorders. *Clin Therapeutics* 2003;25(4):1150-1171.

[6] Gianfrancesco FD, Grogg AL, Mahmoud RA et al. Differential effects of risperidone, olanzapine, clozapine and conventional antipsychotics on type II diabetes: findings from a large health plan database. *J Clin Psychiatry* 2002;63:920-930.

[7] Koro CE, Fedder DO, L'Italien GJ et al. Assessment of independent effect of olanzapine and risperidone on risk of diabetes among patients with schizophrenia: population based nested case-control study. *BMJ* 2002;325:243-245.

[8] Sernyak MJ, Leslie DL, Alarcon RD et al. Association of diabetes mellitus with use of atypical neuroleptics in the treatment of schizophrenia. *Am J Psychiatry* 2002;159:561-566.

the second study, for patients less than forty years old, olanzapine, clozapine, quetiapine and risperidone were all associated with a statistically significant increase in risk for diabetes. Thus, the cited studies as well as the complete "body of evidence" supporting the labeling change are misrepresented in the DHCP letter.

FDA is not aware of substantial evidence or substantial clinical experience to support Janssen's claim that "Evidence also suggests that RISPERDAL is associated with a lower risk of diabetes than some other studied atypical antipsychotics." If you have data to support this claim, please submit them to FDA for review. FDA is unable to conclude, based on unpublished and published studies, whether the differences in results represent true differences in risk for diabetes mellitus among drugs or are due to limitations in the study designs or in some cases, the limited sample sizes examined. FDA's conclusion regarding the lack of evidence to support a ranking of risk among the atypical antipsychotics is reflected in the following statement from the Warnings section of the PI for Risperdal: "Precise risk estimates for hyperglycemia-related adverse events in patients treated with atypical antipsychotics are not available."

Failure to Submit Post-Marketing Reports

The DHCP letter was not submitted to FDA on Form FDA 2253 at the time of initial dissemination, as required by the post-marketing reporting requirements (21 CFR 314.81 (b)(3)(i)).

Conclusions and Requested Actions

The DHCP letter misleadingly omits material information about Risperdal, minimizes potentially fatal risks associated with the drug, and claims superior safety to other drugs in its class without adequate substantiation, in violation of Sections 502(a) and 201(n) of the Act (21 U.S.C. §§ 352(a) and 321(n)).

DDMAC requests that Janssen immediately cease the dissemination of promotional materials for Risperdal that contain claims the same as or similar to those described above and provide a plan of action to disseminate accurate and complete information to the audience(s) that received the violative promotional materials. Please submit a written response to this letter on or before May 3, 2004, describing your intent to comply with this request, listing all promotional materials for Risperdal that contain claims the same as or similar to those described above, and explaining your plan for discontinuing use of such materials. Please direct your response to me at the Food and Drug Administration, Division of Drug Marketing, Advertising and Communications, HFD-42, Rm. 8B-45, 5600 Fishers Lane, Rockville, MD 20857, facsimile at 301-594-6771. In all future correspondence regarding this matter, please refer to MACMIS ID # 12195 in addition to the NDA number. We remind you that only written communications are considered official.

The violations discussed in this letter do not necessarily constitute an exhaustive list. We are continuing to evaluate other aspects of your promotional campaign for Risperdal, and may determine that additional measures will be necessary to fully correct the false or misleading messages resulting from your violative conduct. It is your responsibility to ensure that your promotional materials for Risperdal comply with each applicable requirement of the Act and FDA implementing regulations.

Failure to correct the violations discussed above may result in FDA regulatory action, including seizure or injunction, without further notice.

Sincerely,

{See appended electronic signature page}

Thomas W. Abrams, R.Ph., M.B.A.
Director
Division of Drug Marketing,
Advertising and Communications

Cc: William C. Weldon
CEO
Johnson & Johnson Pharmaceutical
Research & Development, L.L.C.

JANSSEN PHARMACEUTICA INC.

November 10, 2003

Dear Healthcare Provider,

The Food and Drug Administration (FDA) has requested all manufacturers of atypical antipsychotics to include a warning regarding hyperglycemia and diabetes mellitus in their product labeling. In addition to Janssen, the FDA made this request to the following manufacturers:

AstraZeneca – Seroquel® (quetiapine)
Bristol-Myers Squibb – Abilify™ (aripiprazole)
Eli Lilly and Company – Zyprexa® (olanzapine)
Novartis – Clozaril® (clozapine)
Pfizer – Geodon® (ziprasidone)

In an effort to keep you updated with the most current product information available for the management of your patients, enclosed please find updated prescribing information for RISPERDAL® (risperidone).

Hyperglycemia-related adverse events have infrequently been reported in patients receiving RISPERDAL. Although confirmatory research is still needed, a body of evidence from published peer-reviewed epidemiology research[1-4] suggests that RISPERDAL is not associated with an increased risk of diabetes when compared to untreated patients or patients treated with conventional antipsychotics. Evidence also suggests that RISPERDAL is associated with a lower risk of diabetes than some other studied atypical antipsychotics.

For additional information about RISPERDAL or any other Janssen product, please call 1-800-JANSSEN (526-7736) from 9AM to 5PM EST, Monday through Friday.

Sincerely,

Ramy Mahmoud, MD
Vice President CNS Medical Affairs
Janssen Pharmaceutica, Inc.

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References:

1. Buse JB, Cavazonni P, Hornbuckle K et al. A retrospective cohort study of diabetes mellitus and antipsychotic treatment in the United States. *J Clin Epidemiology* 2003;56:164-170.

2. Caro JJ, Ward A, Levinton C and Robinson K. The risk of diabetes during olanzapine use compared with risperidone use: a retrospective database analysis. *J Clin Psychiatry* 2002;63:1135-1139.

3. Fuller MA, Shermock KM, Secic M and Grogg AL. Comparative study of the development of diabetes mellitus in patients taking risperidone and olanzapine. *Pharmacotherapy* 2003;23(8):1037-1043.

4. Gianfrancesco F, White R, Wang RH and Nasrallah HA. Antipsychotic-induced type 2 diabetes: evidence from a large health plan database. *J Clin Psychopharmacol* 2003;23(4):328-335.

5. Gianfrancesco F, Grogg A, Mahmoud R et al. Differential effects of antipsychotic agents on the risk of development of type 2 diabetes mellitus in patients with mood disorders. *Clin Therapeutics* 2003;25(4):1150-1171.

6. Gianfrancesco FD, Grogg AL, Mahmoud RA et al. Differential effects of risperidone, olanzapine, clozapine and conventional antipsychotics on type II diabetes: Findings from a large health plan database. *J Clin Psychiatry* 2002;63:920-930.

7. Koro CE, Fedder DO, L'Italien GJ et al, Assessment of independent effect of olanzapine and risperidone on risk of diabetes among patients with schizophrenia: population based nested case-control study. *BMJ* 2002;325:243-245.

8. Sernyak MJ, Leslie DL, Alarcon RD et al. Association of diabetes mellitus with use of atypical neuroleptics in the treatment of schizophrenia. *Am J Psychiatry* 2002;159:561-566.