



## Community-Based Foster Care

### *Testimony before the House Human Services Committee*

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My name is Brandon Logan and I am the director of the [Center for Families and Children at the Texas Public Policy Foundation](#), a non-profit, non-partisan think tank based here in Austin. Prior to my current position, I was an attorney ad litem for children under the care of the Texas Department of Family and Protective Services (DFPS) for over a dozen years. I have represented hundreds of children throughout Texas. I am certified as a Child Welfare Law Specialist by the [National Association of Counsel for Children](#).

I would like to thank the committee for this opportunity to testify on Senate Bill 11 and in support of community-based foster care, specifically.

In March 2011, Children's Rights, Inc., a national child advocacy organization, sued the Texas Department of Family and Protective Services (DFPS) on behalf of children in permanent foster care, alleging that Texas policies and practices expose foster children to an unreasonable risk of harm ([M.D. v. Abbott, 12](#)). In December 2015, the federal court issued a decision against DFPS, concluding Texas children "uniformly leave State custody more damaged than when they entered" ([M.D. v. Abbott, 254](#)).

The court found that Texas foster children experience an unreasonably high risk of physical abuse, sexual abuse, suicide, and poor supervision in congregate care ([M.D. v. Abbott, 239](#)). The DFPS agency responsible for ensuring the safety of children in state care and investigating allegations of abuse and neglect against them "simply doesn't work [and is] broken" ([M.D. v. Abbott, 202](#)).

By "placing children hundreds of miles from all that is familiar, separating siblings, housing children in facilities that are inappropriate for their needs, leaving children in facilities where they have been abused, and placing sexualized children in the same room as other children without proper oversight," DFPS subjects foster children to a "substantial risk of serious harm" ([M.D. v. Abbott, 228-229](#)).

The paradoxical takeaway from the *M.D. v. Abbott* decision is that DFPS makes a terrible parent. DFPS provides care and makes decisions for approximately 30,000 children in its temporary or permanent custody. Ironically, the same findings made by the court in *M.D. v. Abbott*—that children were exposed to unreasonable risk of harm by their caregiver—would result in termination of the rights of a parent ([Texas Family Code §§161.001\(b\)\(1\)\(D\),\(E\)](#)).

Where a parent cannot be trusted to safely care for a child, the state removes the child and looks for another caregiver. Shouldn't the same thing happen if the state cannot be trusted to safely care for the children in its care?

Because the state has repeatedly failed Texas foster children, the primary responsibility for service delivery and case management should be transferred from the centralized state agency to private providers in the communities where children live. A community-based system has proven to increase child safety and family reunification and reduce the recurrence of child abuse and neglect ([Yampolskaya et al., 100](#)).

### **CPS Legacy System and Legacy Thinking**

The current Texas child welfare system lacks a coherent mission and a meaningful, organizing practice model that clearly identifies outcomes and measures progress. The practice model formalized by Child Protective Services (CPS) from "a series of unwritten rules" (CPS) is little more than a set of non-specific, aspirational goals. Because CPS lacks a roadmap, opinions vary on how close or far away Texas is from its destination of an effective child welfare system, or whether it is even on the right road.

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The various functions related to child protection (i.e., prevention, family services, foster care services, post-adoption services) are scattered across the geography of the state and among state agencies. CPS is a disorganized and disjointed enterprise whereby administration and case management are inefficiently divided between state agencies and agency offices.

Hypothetically, Texas DFPS is divided into 12 semi-autonomous regions. Although DFPS's regional structure could provide flexibility to account for geographic differences in culture and resources, statewide administration prevents regional offices from functioning independently, including by identifying and meeting unique regional needs.

For instance, case management decisions (i.e., placement decisions, treatment decisions, reunification decisions) are supposed to be made regionally. However, the Health and Human Services Commission (HHSC) is responsible for procurement of goods and services on behalf of DFPS, including most of the client services upon which case management decisions rely. Regional staff may only refer to state contracted services, which may be inferior to others locally available. Also, rather than building local capacity where services are unavailable, families go without and children are shuffled throughout the state.

To forestall federal management and to protect our children, Texas must make fundamental changes to CPS by committing to a child welfare practice model that recognizes the relative limitations and strengths of the state and the community in the protection of children and care of families.

## Recommendations

Community-based foster care can work in Texas. It will take time and there will be setbacks in decentralizing the behemoth state child welfare agency. However, over the past decade, outcomes for children in Florida foster care have slowly improved while Texas has subjected its foster children to unreasonable risk and been sued for it. The nation is paying attention to how Texas responds to this challenge, as a federal judge stands poised to place Texas CPS under federal oversight.

### ***Texas should fully commit to Community-Based Foster Care as the vehicle for CPS reform***

A redesigned foster care system is demonstrating results in Region 3b and promises a solution to Texas' daunting child welfare dilemmas. Texas should fully commit to this community-based model as the path forward. Child welfare services have been in a near constant state of reorganization and reform for a decade. Communities will hesitate to build the necessary capacity to address local child welfare needs without clear signals that Texas is committed to the future of community-based foster care.

### ***Texas should transfer the full continuum of child welfare services to community-based providers***

Although the investigation of child abuse and neglect and protection of children from immediate harm should remain a function of government, community-based providers should provide and coordinate all other child welfare services. Those services include adoptive services, independent living programs, shelter care, residential group care, foster care, therapeutic foster care, intensive residential treatment, post placement supervision, permanent foster care, family reunification, and family preservation.

Furthermore, Texas should decentralize and transfer services for prevention and early intervention of child abuse and neglect back to the community. Factors precipitating the need for child welfare services vary across the state. So to do the unique ways in which communities can address those factors. Efforts to prevent child abuse and neglect, to decrease risk, and to increase protective factors should be coordinated by community-based contractors and provided in communities.

### ***Texas should support community efforts to build capacity and coordinate services***

The state should provide a basic infrastructure for community engagement and, then, get out of the way. The shift to community-based foster care must include autonomous stakeholder groups to connect need with capacity in unique and innovative ways. Such groups serve as a focal point for community responsibility and an important local check on the state agency and its vendors. At the same time, state efforts to dictate to or micromanage these community groups will undermine their effectiveness.

### ***Texas should transfer case management authority to the community-based providers***

Case management should transfer along with the responsibility to provide services. Principal community providers must be able to deliver quality and efficiently allocate resources by making case planning determinations necessary to meet goals for children and families in their catchment. Next to parents, community-based providers possess the best information with which to inform significant decisions, including safety and permanency. ★

