

Better Courts
For Kids and Families
Through
Judicial Leadership

The Children's Commission
2010 Annual Report
to the Supreme Court

THE SUPREME COURT OF TEXAS

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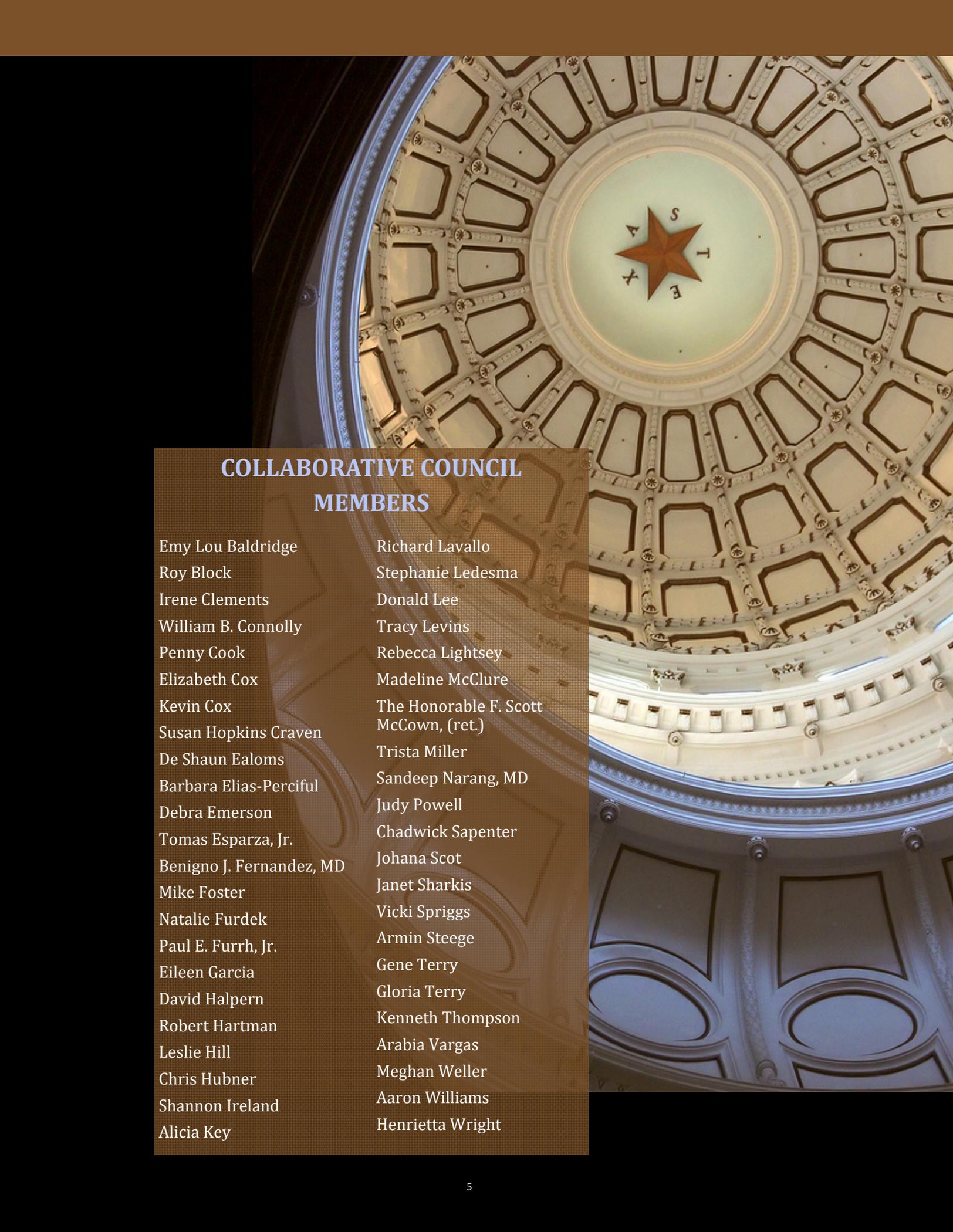
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OUR MISSION:

Strengthen courts for children, youth and families in the child-protection system and thereby improve the safety, permanency, and well-being of children.





One of the most rewarding aspects of serving on the Supreme Court of Texas is the opportunity to make a difference in the lives of everyday Texans through our work on different task forces, commissions, and work groups. When Chief Justice Wallace Jefferson asked me to chair the Children’s Commission, I was excited to join this dynamic group of commissioners, staff and stakeholders who make a profound impact on the lives of Texas children and families.

As daunting as it was to follow in the footsteps of the Commission’s founder, former Justice Harriet O’Neill, I knew I could count on strong support from the many dedicated state leaders who have rallied around the Children’s Commission. Among the Commission’s most important projects are improving education outcomes for children in foster care and providing special training to judges so that they can be better equipped to make equitable decisions for all children and families.

At my first Commission meeting, I saw firsthand the collaboration, partnership, leadership, and absolute commitment by all involved with the Commission to the most vulnerable Texans – children who have been abused or neglected, and their fragile families. I recall my years as a trial court judge presiding over family law cases and the challenges presented by the limited resources and options for the families in my courtroom. I look forward to joining with others to improve child welfare courts at a systemic level, and I am honored to bring leadership to the Commission’s work to provide the judiciary with the tools they need to make the best decisions for these families.

Eva Guzman, Chair
Children’s Commission



Executive Summary

The Permanent Judicial Commission for Children, Youth and Families, or the Children's Commission for short, is dedicated to strengthening courts for families of abused and neglected children and youth who are involved in the Texas child-protection system. Our goal is to improve outcomes of safety, permanency and well-being for the children and youth who are in foster care – about 26,000 at any given time in Texas. It's an ambitious, complicated undertaking made more daunting by Texas' size, decentralized court system, and today's economic climate. With so many facets of the system needing attention and improvement, it's always a challenge to know how to best allocate our limited resources.

The number of projects or programs initiated, directed or overseen by the Children's Commission continues to grow, but it is hard to say no to any reasonable effort that may advance our mission and make a difference in the lives of abused and neglected children and their families. While we recognize that our resources and energy are finite, we hesitate to slow the momentum we have gained.

The period during which we develop our annual report is one of reflection of the work accomplished during the past year and contemplation of future endeavors. One of

the great things about the Children's Commission is its ability to react quickly to emerging trends or pressing matters. As we prepared to write the annual report for 2010, we looked back at the many projects undertaken by our subgrantees, our partners, and our staff. One theme clearly emerged – permanency for the children and youth in our foster care system – a theme that pervaded almost every aspect of our work, even though we didn't start off 2010 with this particular goal in mind.

Last year we expanded our already robust training agenda to include new, cutting edge topics such as training on how institutional, cultural and individual biases can influence decisions affecting minority populations in the child welfare system. The Children's Commission also sponsored the Harris County Beyond the Bench Conference, the largest collaborative seminar of its kind in Texas. We conducted the first multidisciplinary Family Drug Court Round Table, and also provided over 200 attorney scholarships to a world-class conference hosted by the National Association of Counsel for Children (NACC).

Some of our most ambitious and innovative projects also came to fruition in 2010. In November 2010, the Children's Commission launched its web-based Child



Protective Services (CPS) Bench Book. The Bench Book provides direct access to Lexis-Nexis at no charge to CPS judges who access it through the Texas Center for the Judiciary's website. Another innovative project, with already remarkable outcomes, provides free attorney services to dually managed youth who are caught between the child protection and juvenile justice systems. Two notable research studies were released: one evaluating legal representation in CPS cases and another one that examined why Texas children get stuck in long term foster care and ways to improve their lives.

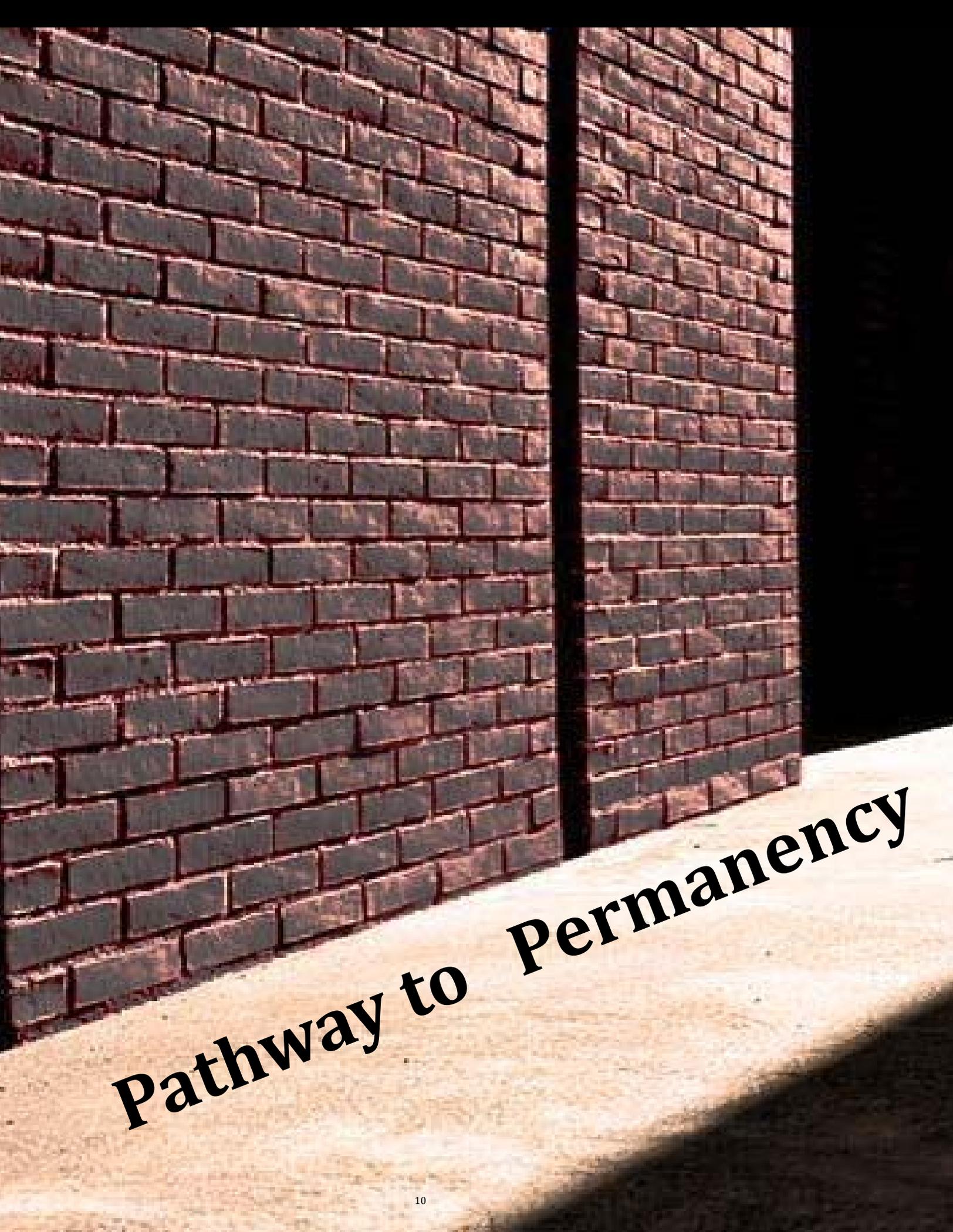
Many of the projects completed in 2010 fulfilled a vision of our former chair, Justice Harriet O'Neill, (ret.), who hoped the Children's Commission would become a vehicle not only for public awareness, but also for garnering and leveraging outside resources. She wanted the Children's Commission to initiate and evaluate worthy projects that other private groups would support financially. Texas Appleseed did just that two years ago when it volunteered to study children in long-term foster care and later received substantial pro bono contributions from the law firms of Fulbright & Jaworski, L.L.P., and McGinnis, Lochridge, & Kilgore, L.L.P. The Advocacy, Inc. legal representation project was financed

during its first year by the Meadows Foundation, ReesJones Foundation, and Texas Access to Justice Foundation.

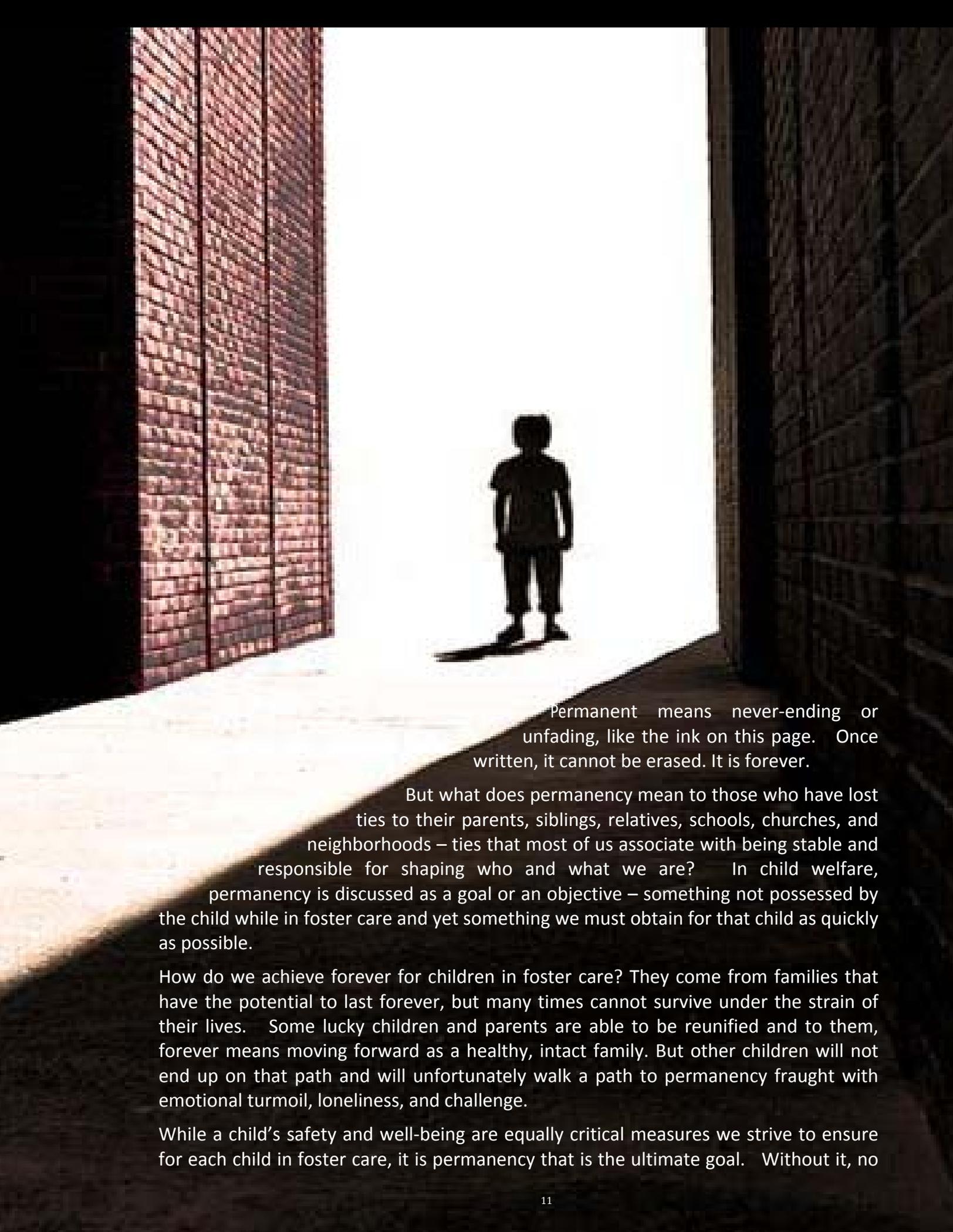
Supreme Court Justice Eva Guzman joined the work of the Children's Commission as our new chair in 2010. Quickly after her appointment by Governor Rick Perry to the Supreme Court of Texas, Chief Justice Wallace Jefferson asked her to take on a leadership role by chairing the Children's Commission upon Justice O'Neill's retirement. She readily accepted and we are fortunate to have Justice Guzman's impressive energy and experience to guide our efforts.

As we head into our fourth year, the atmosphere is still electric with a distinctive kind of energy – committed, charged-up people working together to find and implement solutions to our judiciary's most daunting child-protection challenges.





Pathway to Permanency



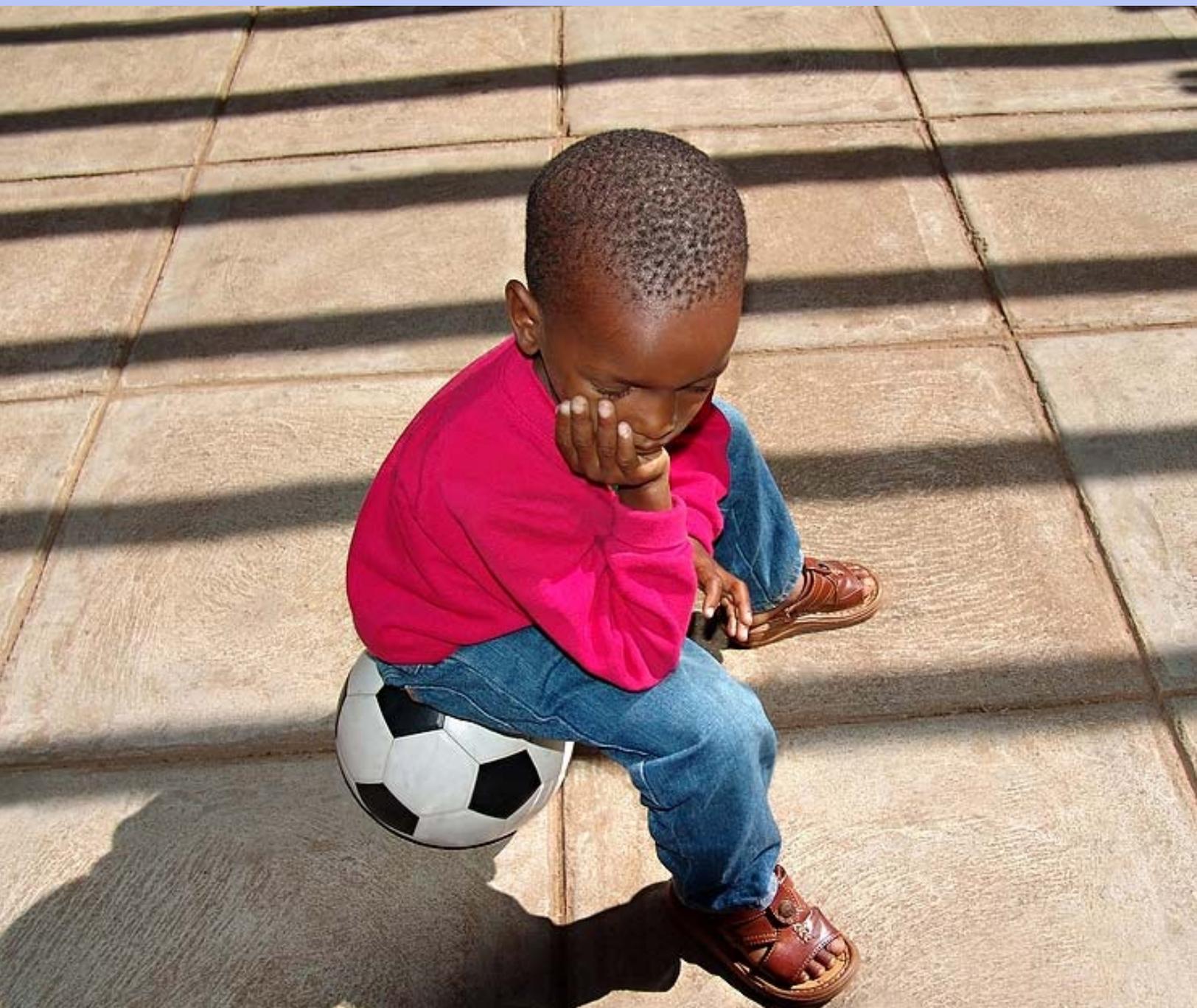
Permanent means never-ending or unfading, like the ink on this page. Once written, it cannot be erased. It is forever.

But what does permanency mean to those who have lost ties to their parents, siblings, relatives, schools, churches, and neighborhoods – ties that most of us associate with being stable and responsible for shaping who and what we are? In child welfare, permanency is discussed as a goal or an objective – something not possessed by the child while in foster care and yet something we must obtain for that child as quickly as possible.

How do we achieve forever for children in foster care? They come from families that have the potential to last forever, but many times cannot survive under the strain of their lives. Some lucky children and parents are able to be reunified and to them, forever means moving forward as a healthy, intact family. But other children will not end up on that path and will unfortunately walk a path to permanency fraught with emotional turmoil, loneliness, and challenge.

While a child's safety and well-being are equally critical measures we strive to ensure for each child in foster care, it is permanency that is the ultimate goal. Without it, no

THE WAIT



sometimes never ends

Texas Appleseed spearheads study of children stuck in long term foster care

About 15,000 Texas children live in the permanent managing conservatorship of the Department of Family and Protective Services (DFPS), some with little chance of ever rejoining their families or of being adopted. Most will be moved multiple times and will age out of the system at 18, never having found a permanent home.

Long-term foster care does not adequately prepare these children for adulthood. Children aging out of foster care face increased risks of poverty, drug addiction, homelessness, and unemployment.

Recognizing the myriad problems these youth face, the Children's Commission charged Texas Appleseed, a public interest law center led by Executive Director Rebecca Lightsey, who is also a member of the Children Commission's Collaborative Council, with the task of conducting a comprehensive study of children in the state's permanent managing conservatorship and the challenges they face in long-term foster care. Texas Appleseed set out to identify the barriers to permanency for these children, and best practices for the legal system to improve their outcomes.

Texas Appleseed partnered with Fulbright & Jaworski, L.L.P., as well as McGinnis, Lochridge & Kilgore, L.L.P., on this two-year study that included data collection, surveys and interviews of persons involved in the child welfare system, including judges, attorneys, guardians ad litem, and others, in the 10 most heavily populated counties and in approximately five regions covered by the specialty docket Child Protection Court judges.

The study findings, released in November 2010, reinforced known problems such as youth reporting that

they did not have a voice in court proceedings. Most stakeholders interviewed or surveyed said they believe the overall quality of legal representation for PMC children statewide suffers from a lack of well-trained attorneys and inadequate compensation of appointed counsel. Study findings suggest that the timing and length of attorney appointments may correlate with the size of a county's budget.

The study confirmed the sentiment that once a case status is labeled PMC, all sense of urgency about finding a permanent home for the child is lost. This lack of urgency is compounded by a sense that these cases are "bottom of the barrel." They receive less frequent intervention and review by courts, the advocates and attorneys are dismissed at a critical juncture, and there is a system-wide lack of accountability.

Although the report is critical of the foster care system, it also acknowledges that there are many strengths. The Texas Family Code is well-written and embodies many best and promising practices promoted by national experts associated with the American Bar Association, Casey Family Programs, and the National Association of Counsel for Children. There are also many dedicated judges, attorneys, and caseworkers who want to do better, but need more guidance, support and resources to complete the task.

Snapshot of Texas Foster Care in 2009

More than **26,000** children were in the state's care because of abuse or neglect. More than

13,500 were in "permanent" care and will

stay in foster care an average of

3-1/2 years before leaving.

Who are PMC kids and why are they stuck in foster care?

It happens when final orders in the legal case are entered

A CPS case starts when CPS removes a child and files a suit against the parent(s) called a suit affecting the parent child relationship. Texas law gives CPS no more than 12 months to move the case to *some* legal conclusion, with one 6-month extension allowed under extraordinary circumstances. The instrument that resolves legal issues between CPS and the parent(s) is referred to as the Final Order, but it doesn't always mean the case is over.

Stuck by default?

A Final Order changes the disposition of all children who have not gone back home or to a relative or are headed toward adoption, into a category called permanent managing conservatorship (PMC). These children are referred to as PMC kids for short. Although some PMC kids live permanently with relatives while remaining in the state's legal custody, most live in some type of foster care setting.

Scrutiny plummets and urgency vanishes

After the final order is entered within statutory deadlines, what's left is minimum court oversight and weak or meaningless permanency plans.

Using DATA to



Texas judges say getting acquainted with their court's data helps them monitor and track case results.

What does data tell us?

Traditionally, Texas judges have not had the ability to use data in a meaningful way to assess how their decisions affect outcomes for families and children involved in child protection cases. However, the federal government, DFPS, and the state legislature routinely rely on DFPS data to evaluate the state's policies and performance.

Because courts are critical decision-makers in the child welfare system, judges must become conversant with certain data to effectively participate in policy discussions and, in some cases, to respond to critiques about judicial performance. Data can help courts identify specific problem areas on which courts can or should focus their efforts. It also gives courts an information tool to initiate a conversation with the child welfare agency, attorneys, advocates and other stakeholders about possible systemic problems and ways to collaborate to improve child permanency, well-being and safety.

Data will never tell a court how to rule in a specific case or identify which jurisdictions are doing things "right" or "wrong." It can only identify areas where a jurisdiction may be significantly different from national practices or standards or the rest of the state, raising issues for study.

Why is data important?

In March 2008, Texas underwent its second Child and Family Services Review (CFSR), which evaluated Texas' child welfare system, including the state's case review system, judicial processes, and child safety, permanency and well-being outcomes. The federal government noted that Texas had far too many children in permanent managing conservatorship and that child protection and judicial practices were creating barriers to permanency for this population. As of August 2009, 1 in every 4 children in state custody had been in care for three or more years. They were and are essentially "stuck" and only a small number of them will ever achieve true permanency. Many stay in foster care until they turn 18.

Under the federal CFSR goal regarding aging out, no more than 37.5 percent of children who age out of foster care should have been in care more than three years, meaning that the majority of children who ultimately age out should be 15 or older when they enter foster care. Based on fiscal year (FY) 2009 DFPS data, however, about 66 percent of children who aged out of care in Texas had been in care for 3 or more years, meaning that 2 of every 3 of these children entered care at age 14 or younger.



improve courts

Another CFSR measure of permanency is the percentage of children with termination of parental rights exiting foster care to a permanent home, which is defined as reunification, permanent placement with a relative, or adoption. The federal standard is for 98 percent of children who exit foster care with termination of parental rights to leave to a permanent home. In FY 2009, there were 15,369 Texas children in care with parental rights terminated. Of that number, 5,698 exited to a permanent home, and 588 exited foster care as what is commonly referred to as a “legal orphan.” Notably, many of the 10,259 youth who remained in care during the fiscal year had been in PMC for several years already.

What can judges do?

As a result of Texas’ performance on these and other permanency measures, DFPS, the judiciary and child welfare stakeholders determined that Texas needed to make significant changes to its policies and practices to achieve permanency for children and youth who are currently in PMC and to prevent the rebuilding of that population. In an effort to involve the judicial system in addressing this issue, the Children’s Commission, in partnership with DFPS and the Center for Public Policy



Priorities, engaged several courts in a collaborative effort to analyze court child welfare data. The program is called Judicial Technical Assistance.

What can be changed with knowledge and understanding?

Providing data to a jurisdiction on just a few measures may help enlighten judges about what is actually happening in their court. For example, a court that has a low rate of reunification from temporary managing conservatorship may be able to increase the rate, if the judge understands how often and why cases are extended. While decisions must be made on a case by

The Judicial Technical Assistance project collects several court-specific statistics (such as how many cases conclude within the 12-month deadline) and provides a free, plain-language report to any judge who wants one.



case basis, often seeing data in the aggregate can spur critical thinking about the practices applied in making case-by-case decisions.

The lack of resources is frequently cited as the reason for extending cases, as well as the hope that reunification might be achieved with a little more time. However, statistics may not support this idea, because results are often the same as if the case had been resolved within the statute's 12-month deadline.

What works for one jurisdiction may not work for another. The Children's Commission intends to continue the dialogue in the hope that as Texas courts develop knowledge of data relating to their jurisdictions, they will find ways to achieve safe permanency for all children, youth and families involved.



Judge Jean Boyd reviews PMC cases.

Case Management By Big Chief Tablet

Judge Jean Boyd, who presides over Tarrant County's 323rd District Court, conducts each placement review hearing – a hearing involving youth in long-term foster care – in a meticulous, yet antiquated way because she doesn't have the tools she needs to meaningfully track her CPS court cases, if you don't count pen and paper. When she calls her method "case management by Big Chief writing pad," it's not a complaint because "most other Texas courts don't have [the tools] either. Better technology is something many Texas courts need, not just mine," Judge Boyd said. "And I'm glad its importance for improving outcomes is being more widely recognized, because if we can't track our performance, we can't truly evaluate how we're serving children and families."

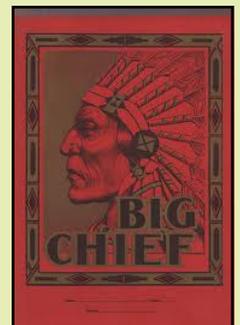
Judge Boyd was eager this June to see for the first time what the data revealed about her court's handling of cases, including how many cases reached a final order within the legal 12-month timeframe and how long it took to get children adopted after the court terminated their parents' rights.

A few weeks before, Judge Boyd asked for a report on her court's data when she learned that the service was provided as part of the Commission's Judicial Technical Assistance project. Upon review, her court compared favorably with other urban counties in Texas in most measures and even came out on top in several, including having the highest rate (86 percent) of children who exited care to a permanent home, defined as reunification, adoption or PMC to someone other than DFPS.

But she was disappointed to learn that only 60 percent of her cases met the 12-month time parameter to reach a final order. "Reading that was eye-opening," Judge Boyd said. "Even our district attorney's office was surprised."

With an Excel spreadsheet, Judge Boyd plans to more carefully track extensions of this 12-month deadline from now on, as well as the reasons they were granted. If she had the resources, she'd like to be able to quickly identify the cases pulled for the study and review their specifics. "I want to know, for example, if we're creating every opportunity we can for reunification," Judge Boyd said.

"This is the kind of information we need to assess how we're handling cases and look for ways to improve outcomes," she added. "Otherwise, there's no way for us to figure out what's happening."





Texas Legal Representation Study Results Not Surprising

Since its establishment, the Children’s Commission has focused on improving legal representation in child protective services cases. To accurately identify legal representation issues on a statewide level, in 2009, the Children’s Commission embarked on a year-long study of local practices in jurisdictions across Texas. The study was designed to assess the timing, methods, and duration of attorney appointments in CPS cases. The study also collected information on training requirements, compensation, judicial evaluation of attorney performance, and the availability of legal training within the jurisdictions. Finally, it asked for participants’ suggestions for improving legal representation.

Quality legal representation is essential to a CPS case, given the importance of the interests involved. It is well established that a parent’s right to “the companionship, care, custody, and management of his or her children” is of constitutional magnitude. Unlike the adjudication of most types of cases, a court’s decision-making in a CPS

case involves continuous reassessment through a series of hearings. Texas courts conduct approximately 90,000 child protection hearings each year.

The Texas trial court system is decentralized, leaving administration and funding responsibilities to each county. Counties bear the costs associated with providing statutorily mandated legal representation in CPS cases, so compensation and methods of appointment vary by jurisdiction across the 254 counties of Texas. In most counties, the compensation in court-appointed CPS cases is significantly lower than attorney compensation in private law matters, which makes it difficult to attract dedicated, qualified attorneys to take the cases.

Attorney skill level and experience also may vary depending on the availability of training and whether the jurisdiction has implemented eligibility requirements to receive appointments. This area of practice is highly specialized and complex. Not all attorneys who are

“If the adversarial process is working and the attorneys are engaged, we’re going to have fewer kids in state care.” — Bexar County Judge

appointed to represent children and parents in CPS cases are sufficiently trained in child-protection law and its related issues, such as substance abuse, domestic violence, incarceration, poverty, and immigration.

The impact of CPS involvement is significant not only to the families involved, but also to Texas as a whole. Of the 6,510,210 children living in Texas, 40,840 of them were under the legal responsibility of the Department of Family and Protective Services during the 2009 Fiscal Year. In 2009 alone, 12,107 children were removed from their homes as a result of abuse or neglect.

Removing children from their homes is not only devastating to children and parents, but also expensive for the taxpayer. A lawsuit filed by CPS can take 12 to 18 months to reach a legal resolution, but a child can stay in foster care much longer. If the case is resolved by awarding permanent managing conservatorship of a child to DFPS, the case remains active on a court’s docket until the child finds a permanent home and exits the foster care system. During the pendency of the case, federal, state, and local governments spend thousands of dollars providing out-of-home care for the children, services to the families, as well as legal representation and judicial oversight. Based on a sampling, Texas counties spent an estimated \$34 to \$37 million a year on attorneys’ fees associated with CPS cases during the 2009 fiscal year. But, the legal fees pale in comparison to the more than \$1.2 billion spent annually on child protection in Texas. In 2009, Texas spent over \$343 million on foster care alone, averaging out to almost \$13,000 per child in care. It stands to reason that the more effectively Texas can resolve CPS cases, the less money each governmental entity will have to allocate to the process.

More importantly, the longer a case lingers, the more emotionally traumatizing it is for children and their families. The damage has lasting effects on a child’s development and academic achievement. Effective legal representation likely hastens a child’s reunification with a parent or placement in a permanent home, thereby shortening the time that a child must linger in paid foster

care. A shorter length of time in foster care helps to protect family relationships, promote stability, and save taxpayer money. For instance, early appointment of a parent’s attorney can help a parent complete tasks or services required in order to achieve reunification with his or her child. Without the early assistance of legal counsel, parents may feel alienated by the process, finding it nearly impossible to navigate the CPS and legal systems alone. In those situations, by the time attorneys are appointed for the parents, it is often too late for the parents to successfully complete their service plans before the lawsuit must reach a conclusion, and, as a result, they lose their children.

Furthermore, as in any case, the failure of an attorney to adequately carry out his duties can result in erroneous and untimely decisions. A diligent attorney, prepared to conduct an independent investigation of the facts and present evidence, helps test the reliability of CPS allegations. Moreover, a good parent’s attorney may provide guidance and assistance to help the parent establish a safe and suitable home for his or her children. A well-trained prosecutor or DFPS attorney may help identify the appropriateness of termination of parental rights or other alternatives. And, in cases requiring termination of parental rights, a zealous and educated child’s attorney may mean the difference between the child languishing in foster care and finding a permanent home before turning 18. Because the stakes are extremely high with lifelong impacts on children and families, Texas must give serious consideration to improving legal representation.

The Legal Representation Study is intended to help policy makers and judges evaluate representation in their jurisdictions and determine whether it may be improved by implementing different appointment models, compensation structures, training requirements, or evaluation tools. The report is also intended to highlight the importance of providing quality legal representation to these fragile families. The entire report is available on the Children’s Commission website. The home page URL is: www.supreme.courts.state.tx.us/children.asp.

Travis County Offices of Parent and Child Representation

In 2008, the Children’s Commission awarded a grant to Travis County to test the effectiveness of county-run offices for child and parent representation. Both the Travis County Office of Child Representation (OCR) and Office of Parent Representation (OPR) provide multidisciplinary, specialized service to clients through a team of attorneys, support staff, and social workers. Additionally, the professionals in the offices are able to specialize in the field of child protection, and their frequent exposure to similar cases enables them to quickly recognize the issues, recommend solutions, and advocate for timely resolutions. This specialization also serves as a resource to the legal community, which frequently turns to the offices for advice. The attorneys at the offices interact with each other and the prosecutors on a daily basis, which fosters a positive working relationship, allows for a constant dialog, and builds mutual respect. The offices are also more cost effective than providing representation by appointed private attorneys. While OCR and OPR handle approximately the same number of cases as court-appointed private attorneys, Travis County spends about 25 percent less on the offices than it does on the appointed private attorneys’ fees. As the data confirms, legal representation offices provide higher quality services at a lower price, and offer solutions to ensure uniformity in the quality of representation.



Texas Rio Grande Legal Aid Foster Youth Justice Project

Recognizing that youth were frequently exiting the foster care system without the resources to succeed or survive as an adult and in an effort to improve the



legal representation provided to them, the Children’s Commission provided funding for Texas Rio Grande Legal Aid (TRLA) to start the Texas Foster Youth Justice Project. The project seeks to empower current and former foster youth by providing legal services and information, such as guidance on their rights in a CPS case, which include attending court hearings, speaking to the judge, being involved in service plan meetings and updates, staying in contact with siblings, staying in the same school, obtaining copies of records, and changing their legal names. To assist youth transitioning from foster care into adult life, the project provides youth with information about education, tuition waivers, employment, medical decisions, health insurance, housing, money management, voting, criminal law and obtaining a driver’s license and birth certificate. The project also assists attorneys who represent these youth.

The project maintains a hotline (1-877-313-3688) and a website (<http://www.texasfosteryouth.org>) that youth may access to seek advice, guidance, assistance and legal advice. In situations requiring greater assistance, the project offers direct legal representation. With assistance from TRLA attorneys, the project has provided direct services to youth in 211 cases since its inception. The TRLA attorneys who provide direct representation assist with various issues such as family law (often involving domestic violence), landlord/tenant disputes, consumer protection, name changes, immigration issues, sealing juvenile and criminal records, obtaining CPS records and identification documents, and obtaining public benefits including food stamps and SSI.

In 2010, the project published and distributed the second edition of the “Guide for Those Aging Out of Foster Care in Texas”, which incorporated the changes from the 2009 Legislative Session. A Spanish translation of the guide is underway. The project also developed guides on local laws that impact youth, information on sealing juvenile records under Texas law, and pro se documents. The project has helped many youth transition out of care to a more successful adult life.

Foster Youth Caught Between Child Protective Services and Juvenile Justice Get Much-Needed Legal Representation



Richard Lavallo, right, with Ian Spechler, speaks at the November Children's Commission meeting

The Supreme Court of Texas Children's Commission formed a workgroup in 2008 to look at outcomes for youth in the long-term conservatorship of DFPS who are placed in the Texas Youth Commission (TYC) or State Supported Living Centers (SSLC), formerly known as State Schools. One key issue facing this population is that the youth often lacked legal representation while caught in and between two systems. To address this problem, the Children's Commission partnered with Advocacy, Inc. (AI), the ReesJones Foundation, Texas Access to Justice Foundation, and the Meadows Foundation to provide legal representation to this dually managed population.

In December 2009, AI hired two full-time attorneys dedicated to the Legal Advocacy for Dually Managed Children Project (LADMCP). The attorneys, Dustin Rynders and Ian Spechler, travel two to three days per week to visit clients at TYC facilities or attend court hearings. It was important for the success of this project that the primary work being done on all cases be conducted by specialized attorneys who fully understand the foster care, criminal justice, and disability service systems. What makes this project unique is the way the attorneys work with multiple systems simultaneously. Unfortunately, the issues with foster children in the TYC or SSLC systems do not fall neatly into one category. The attorneys make an effort to provide representation across several issues and systems.

Take the case of RS. RS had just turned 18 and was incarcerated at the Corsicana TYC facility when AI was appointed to his case. He had been diagnosed with Bi-Polar Disorder and Depression. When AI took over his case in February 2010, he was spending 90 percent of his time on the security unit for failing to comply with facility rules. Educationally, RS came into TYC as a student who needed special education services, and because this was not identified, he spent almost a year and a half without receiving the services he needed to earn credits to graduate. Frustrated, he had little hope of graduating and engaged in inappropriate behaviors both in and out of school. As soon as AI was appointed, his lawyer petitioned TYC to obtain the special education services RS needed, and during the last four months of his incarceration, RS was on the security unit for just half a day. When RS was discharged, his AI attorney helped him get placement in a halfway house where he completed his GED.

The typical trajectory for most foster kids is reduced life chances at every turn. The outlook for those who get in trouble with the law is even more dreary and gets even worse if they have a disability – which most of these kids have. With the type of specialized legal representation this AI project provides, these youth have a real chance at succeeding – perhaps for the first time in their lives – once they leave foster care .



TEXAS

In May 2010, the Children’s Commission, in partnership with the Texas Center for the Judiciary, held a judicial conference on the topic of implicit bias in judicial decision-making. The objective was to educate judges on how cultural and institutional racism contributes to the overrepresentation of African American children and families in our child protection system. These practices also affect the Native American and Hispanic populations of our state. A term commonly used to describe the overrepresentation of particular population in a child or family-serving system compared to their presence in the general population is called “Disproportionality.”

Numerous studies indicate that African American children are overrepresented in child welfare systems across our nation. In Texas, although African American children make up about 12 percent of the child population, they account for almost 28 percent of the children removed from their homes due to allegations of abuse and neglect. Not only are they removed at higher rates nationally and in Texas, once they enter foster care, a lower percentage of African American children are successfully reunited

with their families and a higher percentage age out of foster care without an adoptive family or other permanent placement.

Disproportionality in various state systems, such as juvenile justice and child welfare, has been on the national and state radar for years. In Texas, efforts to address the issue gained traction when the 79th Legislature mandated in Senate Bill 6 an analysis – which controlled for other factors such as family structure and poverty – to determine whether Texas had a problem, and if so, to create a remediation plan.

As a follow-up to the May conference, the Children’s Commission established a Judicial Disproportionality Workgroup in October 2010. The workgroup is chaired by Joyce James, Associate Deputy Commissioner, Health and Human Services Commission, Center for Elimination of Disproportionality & Disparities, and Carolyne Rodriguez, Senior Director, Texas Strategic Consulting, Casey Family Programs.

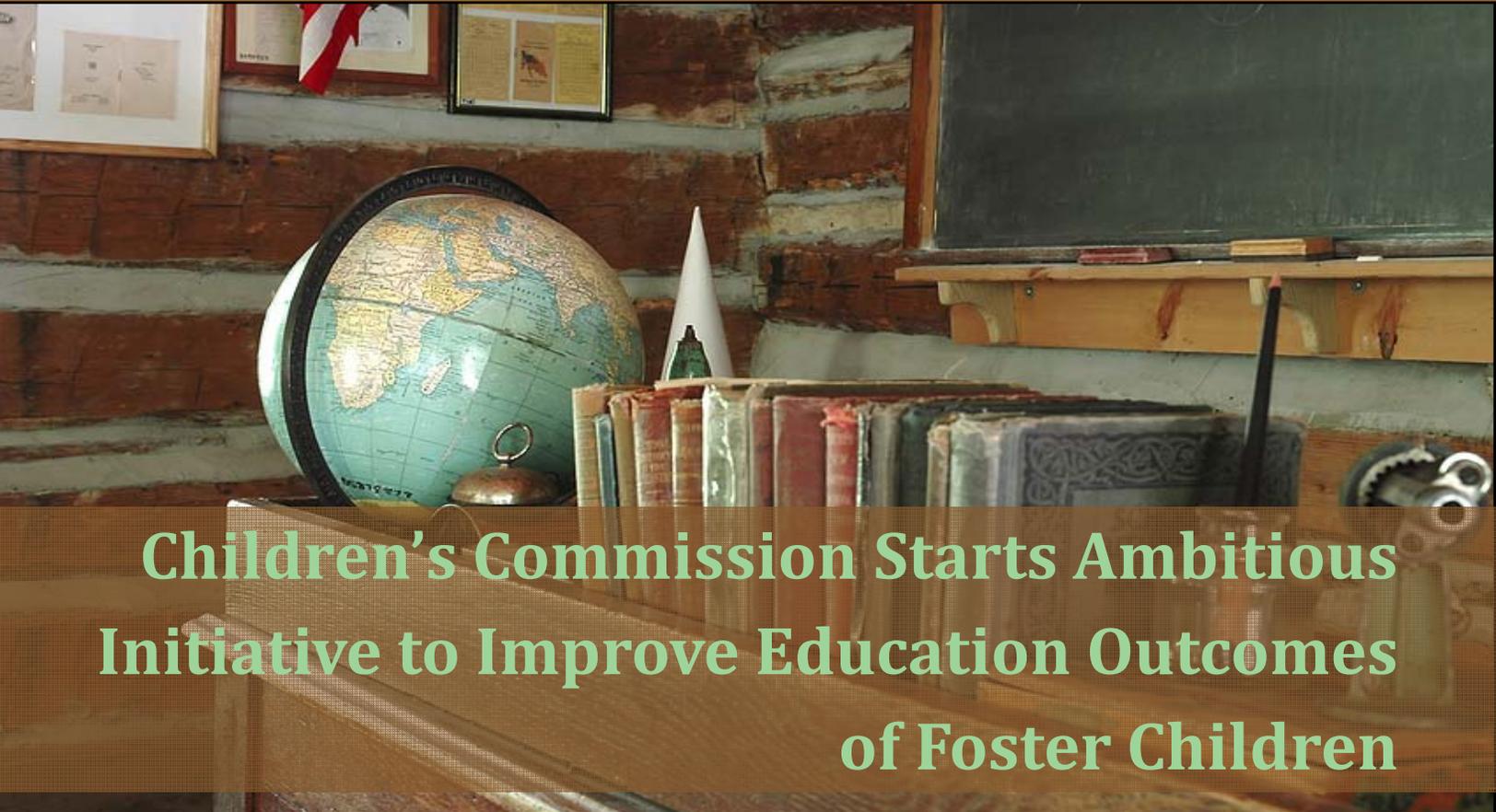
The Judicial Disproportionality Workgroup held its first meeting on December 10, 2010, in Austin. The meeting focused on adopting strategies to help with proliferation

Takes The Lead in Addressing Disproportionality in the Child Welfare System

of anti-racist principles and strategies throughout our judiciary and our state. The workgroup also developed its mission statement - to educate the judiciary and legal stakeholders on the existence of disproportionality and the task of dismantling institutional racism in the legal system that contributes to disparate outcomes for African American, Native American and Hispanic youth and families. Plans for 2011 include bringing training to local jurisdictions to help judges lead the effort to undo racism by helping their stakeholders and community leaders understand what it is, its history and origin, how culture creates racism and racist practices, and how racism manifests individually, culturally, and institutionally.

The Children's Commission will be the proud recipient in February 2011 of the Austin Council of the Anti-Defamation League's inaugural Trailblazer Award in recognition of its leadership in this endeavor. Additionally, it will sponsor the second Implicit Bias in Judicial Decision-Making conference held in partnership with Texas Center for the Judiciary in June 2011.





Children's Commission Starts Ambitious Initiative to Improve Education Outcomes of Foster Children

According to recent data compiled by the Texas Education Agency and DFPS, Texas foster youth are less likely to graduate high school and have lower achievement levels than school age children generally.

On May 20, 2010, the Supreme Court of Texas signed the order establishing the Education Committee of the Children's Commission. The idea of this special committee arose during the October 2009 National Judicial Leadership Summit on Child Protection when the Texas team developed and adopted a state action plan that included the goals of improving education outcomes for kids in care and keeping foster children closer to their homes.

The Education Committee, comprised of judicial, education and child welfare leaders, is without precedent in Texas. High level decision-makers, such as the Commissioners of the Texas Education Agency and DFPS, and the Executive Directors of Texas CASA, the Texas Association of School Boards, and the Texas Association of School Administrators, sit on the committee. Along with other education and child welfare stakeholders, this group has the influence to collaboratively change policy, law, and practice.

The Education Committee held its inaugural meeting on September 30-October 1, 2010. The members discussed the many educational challenges facing Texas foster youth, reviewed national and state data, and developed principles to guide the work of four subcommittees, which will report to the Education Committee on a regular basis.

Texas has an opportunity to lead the nation in its support of collaborative efforts between the child welfare and education systems to improve educational outcomes of foster children and youth. Over the next 15 months, committees and subcommittees will meet, collaborate, and develop recommendations for further work to occur after the committee issues its final report to the Children's Commission in 2012.



Subcommittees of the Children's Commission Education Committee

- School Readiness for Foster Children Age 0-5
- School Stability and Transitions for Foster Children and Youth Age 5-17
- School Experience, Supports, and Advocacy for Foster Children and Youth Age 5-17
- Higher Education for Foster Children and Youth

Each Subcommittee is Charged With the Following:

- Review federal and state statutes
- Assess challenges
- Identify existing resources
- Prioritize issues
- Create short and long-term goals
- Develop written and oral reports for the Education Committee
- Develop recommendations for further progress

"The Education Committee is charged with bringing together several complex systems — child welfare, education and the courts — to determine strategies to remove barriers for a foster child's educational success."

**Judge Patricia Macias,
Chair Education
Committee**

Children's Commission member and Education Committee Chair, Judge Patricia Macias, (far right) leads the second Education Committee meeting.



OTHER CHILDREN'S COMMISSION PROJECTS

Notice and Engagement

Round Table

In December 2010, with the help of Casey Family Programs and DFPS, the Children's Commission co-hosted a round table discussion on notice and engagement of parties and stakeholders in a CPS case. The Round Table brought together various stakeholders, including judges from across the state, representatives of DFPS, prosecutors, attorneys, former foster youth, parents and relatives who were involved in CPS cases, and foster parents. The discussion focused on compliance with statutorily required notice procedures and methods of engaging relatives and other stakeholders who may be able to help the child reach permanency.

The discussion revealed that DFPS experiences barriers in obtaining information from other state agencies, parents, and stakeholders. Parents and others involved in the proceedings who are entitled to notice or service are not getting it. In the cases where notice and service are accomplished, courts are not engaging families in the hearings, which undermines the purpose of the notice and can cause unnecessary delays and uninformed decisions.

Other barriers revealed during the Round Table include unfamiliarity with proceedings, intimidation by the legal system and process, and physical barriers, especially in large urban counties with more than one court house and more than one judicial division handling the cases. Docketing practices also discourage participation because some courts schedule all hearings first thing in the morning, and participants spend most of the day waiting for their cases to be called.

The Round Table revealed that there are DFPS policies that need to be amended or at the very least clarified. Caseworkers, courts and other stakeholders must be educated on the value of bringing all voices to the discussion, even if it requires additional time to listen. Engaging individuals who have not only an interest in the child, but also a statutory right to be in court and be heard, may assist the family and child reach permanency more quickly. To encourage meaningful participation, both DFPS and the courts need to make a concerted effort to ensure those who are entitled to notice and to be heard are welcomed. An initial step is to empower these individuals with information about the hearings, so that they understand what is going on. Armed with information about the process, stakeholders can engage more efficiently and thereby add value rather than slow things down.

Notice to the parties, children, youth, caregivers and other stakeholders is essential in ensuring that individuals who might be able to assist CPS and the courts in resolving a case timely and in a manner that serves the child's best interest while protecting parents' rights to due process is critical. The Children's Commission will continue to engage the Notice and Engagement Stakeholder group to identify policies, practices, training issues, implementation barriers, and other matters affecting how judges not only hold parties accountable for their responsibilities, but engage more deeply in the process and encourage meaningful participation of parties and interested stakeholders themselves.



Online CPS Judges Bench Book

Judges across the state now have access to essential information on child welfare law in a user-friendly, online CPS Bench Book. It was authored by seasoned district and associate judges with dozens of years on the bench presiding over CPS cases. The book is designed to benefit new judges and experienced judges alike. When researching with the Bench Book, a judge is able to search chronologically by event (e.g., investigations, removals, adversary, status, permanency, placement, final hearing, appeals, and adoption) and topically (Indian Child Welfare Act, Interstate Compact for the Placement of Children, Medical Care, or Permanency Care Assistance). The information is set out in a simplified format to facilitate real-time use from the bench. Or if further research is needed, all of the case law and statutory references are directly linked to Lexis/Nexis, free of charge to judges. Through the Texas Center for the Judiciary's website, the CPS Bench Book provides secure access to checklists, practice notes, national and statewide policies, and numerous links to helpful guidelines, forms and other websites.

Video Conferencing in Child Welfare Hearings

Anecdotally, the presence of children in CPS hearings in Texas is rare. The reasons vary across the state and include cost, distance, personnel, contract issues, absences from school, and judicial preference. In 2009, the Children's Commission examined the legal ramifications and complexities associated with using video conferencing to facilitate children participating in court hearings in those circumstances where children would not otherwise attend or participate. It developed a guidance document that examined the purpose, scope, confidentiality, security, technology barriers, equipment requirements, and protocol for use of video technology, with a goal of finding a solution to accommodate a variety of network assets across the state, connect multiple sites, share documents, and record hearings, while delivering high quality video at affordable prices.

There are very promising solutions that can achieve all of these objectives, and the Children's Commission

hopes to launch video conference technology between kids and courts in 2011 and report back to the Children's Commission and other interested parties next year with tales of success.

Cutting-Edge Technology for Child Protection Courts - CPCMS

Beginning in 2007, the Office of Court Administration (OCA), in partnership with the Children's Commission began working on a new child protective services court case management system (CPCMS) to enable courts to accomplish tasks and track to pinpoint which judicial and court practices were most effective in moving child protection cases through the legal system.

Child protection cases differ from other types of cases in many ways, but two distinct areas are the statutory deadlines for conducting court hearings, and the special consideration that courts must give to the social influences that affect a child's life.

Having data and tools to help manage deadlines and monitor social influences is critical to making decisions that positively affect the lives of these children. Implementation of CPCMS and the array of functionality it provides the judges who use the system enhances the court's ability to handle cases in the most competent and efficient manner while ensuring the child's best interests are always paramount.

In 2011, reporting enhancements will allow judges to gain a better overall view of not only their own court, but also will enable them to view their court's performance in comparison with other child protection courts.

Family Drug Court Round Table

Studies show that children of mothers who participate in Family Treatment Drug Courts (FTDC) spend fewer days in out-of-home placements and are more than twice as likely to be reunified with their parents compared to other children in the child welfare system. These successes are attributed to the fact that FTDC families receive more services, attend more court appearances, and are more likely to enter substance

abuse treatment programs earlier and to have higher rates of completion. These impressive outcomes have led to the creation of eleven Texas FTDCs across the state, with four more in the planning process.

In November 2010, 15 judges and their FTDC teams gathered in Austin at the Family Drug Court Round Table developed by the Children’s Commission to exchange ideas about improving practice and policy among the judicial, substance abuse and child welfare systems. The program started with a visit to Judge Darlene Byrne’s drug court in Travis County’s 126th District Court. Judges, attorneys, substance abuse specialists, court coordinators and DFPS representatives observed the court in progress and later engaged in a question and answer session with some of the FTDC participants and drug court team. Over the next two days, representatives from every DFPS Region in the state heard national perspectives from Dr. Nancy Young, Director, National Center on Substance Abuse and Child Welfare, and the Executive Director of Children and Family Futures (CFF), Judge Nicolette Pach, the pioneer of the New York’s first family drug court in 1997, and Phil Breitenbucher, a consultant from CFF.

Court sustainability, leveraging resources, measuring outcomes, the latest in drug testing, and responding to participant behavior were among the topics of discussion. Many Texas experts also weighed-in on local practices, challenges and hard-earned solutions to the various problems they had encountered. Break-out sessions allowed judges and other drug court professionals with experience in drug courts to engage in peer-to-peer networking and conversations about how to start a new court or how to improve practices. Many drug court teams mentioned that it was the first time they had connected with the other stakeholders in their community who work with families in the family drug courts. One court coordinator commented in the program evaluations, “it is my hope that we can do this yearly. It was very helpful.”

The Family Drug Court Round Table ended with plans to meet annually and stay connected in-between meetings through the online colleague connections of Texas Lawyers for Children.

National Association of Council for Children Annual Conference

The NACC conference was held October 20-23, 2010, in Austin. This annual conference offered nationally known expert speakers on multi-disciplinary topics related to legal representation in child abuse and neglect cases. The Children’s Commission supported this conference by providing funding for registration scholarships for Texas attorneys and for speakers’ fees. Themes for this year’s conference included disproportionality, transitioning youth, and effective legal advocacy.

Former DFPS Deputy Commissioner Joyce James delivered a plenary presentation during the conference on disproportionality, an area in which Texas is gaining national recognition. There were numerous Texas speakers and/or sessions relating to Texas efforts in legal representation. In all, over 220 attorneys received registration scholarships and roughly 25 members of the the Texas judiciary and the Children’s Commission Training Committee attended.

Commission Round Table on Permanency Outcomes

The Children’s Commission conducted its first Round Table of the year on February 18, 2010. The meeting focused on permanency outcomes for children in foster care and was attended by over 50 judges, child and parent attorneys, DFPS leadership, advocacy groups, and other child welfare stakeholders. Child Welfare data from DFPS was examined and used to guide the discussion. The group focus was two primary goals: achieving permanency from temporary managing conservatorship, if possible, and achieving it from permanent managing conservatorship, if not. The Round Table focused on timeliness and reunification, adoption by relatives and strangers, relatives as permanent placements, and children in permanent care with and without termination of parental rights.

Although everyone left with the understanding that data can never tell a court how to rule in a specific case or identify which jurisdictions are doing things “right” or “wrong”, it can identify areas where a jurisdiction may be significantly different from national practices or

standards or the rest of the state. Achieving permanency for children in foster care is a huge challenge. The Round Table and the subsequent activities associated with providing judicial technical assistance has helped judges start the dialogue in their local jurisdictions and raise awareness about bringing about true, safe permanency for all children, youth and families involved.

2010 PROJECTS AT A GLANCE

Advocacy Inc., Legal Representation Project
Appleseed Long-term Care Study
Associate Judges Conference
Better Courts for Kids and Families Newsletter
Child and Family Services Review
 Program Improvement Plan Collaboration
Child Protection Case Management System
Child Welfare Law Certification
Children's Commission Round Table Series
ChildSafe
CPS Bench Book
CPS Judges Conference
Dallas County Video Conferencing
Data Exchange
Disproportionality Workgroup
Drug Court Training Workgroup
Education Committee Formation: Mission, Guidelines
 and Subcommittees
Family Drug Treatment Court Round Table
Functional Requirements, Version 2
Guide to Those Aging out of Foster Care in Texas
Harris County Beyond the Bench
Harris County Infant and Toddler Court
Harriet O'Neill Award for Excellence
Implicit Bias in Judicial Decision-Making
Judicial Technical Assistance
Jurist in Residence
Legal Representation Study
Local Jurisdiction Disproportionality Training
Mediation Project
NACC Child Welfare Law Conference
National Adoption Day Events
National Judicial Leadership Project
NCJFCJ Annual Conference
NCJFCJ Legal Orphan Project
NCJFCJ National Conference on Juvenile and Family Law
Office of Court Administration Judicial Education
Office of Court Administration Judicial Support
Practitioner's Guide to Abuse and Neglect Cases
Public-Private Partnership for Foster Care Redesign
Reform of the Interstate Compact for
 the Placement of Children
Scholarships for Child Abuse and Neglect Track at
 Advanced Family Law
Scholarships for National Conferences
Statewide Task Force On Disproportionality
Statewide Video Conferencing Project
Strategic Planning
Tarrant County Challenge Drug Court
Texas CASA
Texas Center for the Judiciary
Texas Data Enabled Courts for Kids Project
Texas Lawyers for Children
Texas RioGrande Legal Aid Foster Youth Justice Project
Travis County Office of Child Representation
Travis County Office of Parent Representation
Trial Skills Training Workgroup
Tribal Relations Initiative



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