



**Supreme Court of Texas
Permanent Judicial Commission for
Children, Youth and Families**

**REPORT TO THE COMMISSION
April 3, 2009**



**201 W. 14th Street
Austin, Texas 78701**

**Supreme Court of Texas
Permanent Judicial Commission for Children, Youth and Families
Report in lieu of April 3, 2009 Meeting**

MINUTES (adoption pending) – January 16, 2009 meeting ([view minutes](#))

COMMISSION MEMBERSHIP CHANGES ([view Commissioner biographies](#))

Per Supreme Court Order, the Assistant Commissioner of Child Protective Services is a standing member of the Commission. Audrey Deckinga was named the new Assistant Commissioner for CPS, effective March 1, 2009, and is our newest Commission member. Ms. Deckinga has worked in the human services field for over 30 years in three states. She has been a therapeutic foster parent for children in Minnesota and has worked for Child Protective Services in Texas for over 18 years. In Texas CPS, she rose through the ranks, working in the field as a caseworker, supervisor, program director, and then at state headquarters as the division administrator for placement and services and as the director of policy and program. During her years with CPS, she supervised the initial implementation of the kinship care and Family Group Decision Making programs and developed the Exceptional Care pilot. For the past three years, she has worked as a senior policy analyst at the Health and Human Services Commission in the office of health services.

As announced at our last meeting in January, Harper Estes has been added to the Commission. Mr. Estes is the current State Bar President and has served on the State Bar Board of Directors, and as chair of the State Bar Grievance Committee. He is very active in Big Brothers/Big Sisters and Justice O'Neill said she looks forward to benefiting from his intelligence and expertise in matters affecting our younger population as soon as his schedule permits him to become a fully active member.

COLLABORATIVE COUNCIL MEMBERSHIP CHANGES

The Executive Committee of the Commission added to the Collaborative Council Judy Powell and Johana Scot, founders of the Parent Guidance Center. Ms. Powell and Ms. Scott will bring a much-needed perspective to the Commission's efforts to improve legal advocacy and protection of parents' rights in child protection cases. The Parent Guidance Center's mission is to equip the parents of children who have been removed from their homes by CPS with the necessary tools to become successful families by providing guidance with dignity, support services, education, and resource coordination in Texas and beyond, to promote family reunification, and to provide preventative help to families at risk for abuse and neglect.

COMMITTEE MEMBERSHIP CHANGES

Judge Camile DuBose, Chair of the Commission's Training Committee, added Senior District Judge Lamar McCorkle to the committee. Judge McCorkle served as judge of the 133rd Judicial District Court in Harris County for 22 years. He has been active in numerous continuing legal education programs as an author, presenter or course director, including those for the Texas Center for the Judiciary, State Bar of Texas, National Judicial College, National Institute for Trial Advocacy, Houston Bar, and for law schools in Texas. Judge McCorkle is actively involved in judicial activities, including service as past chair of the Judicial Section, State Bar of Texas and the Texas Center for

the Judiciary. Judge McCorkle is a former chair of the Board of Trustees of the Texas Center for Legal Ethics and Professionalism and currently serves on the Judicial Committee on Information Technology for the Supreme Court of Texas, and as managing editor of the Harris County Bench Book.

Judge DuBose also added Chadwick Sapenter, former foster youth, to the Training Committee. Mr. Sapenter sits on the board of several charitable organizations such as Partnerships for Children, and the Texas Child Welfare Board's: Youth Aging Out Ready by 21.

COLLABORATIVE COUNCIL RETREAT

Commission staff has set a tentative date of July 23 or 24, for the Collaborative Council Appreciation Meeting (location to be announced). The meeting is being held as a way to thank Collaborative Council members for their support and enthusiasm. Goals for the retreat include identifying specific issues members are currently dealing with in their particular disciplines, including those for which the Commission could lend support, as well as identifying which Commission projects could use more input or help from the Collaborative Council. Arabia Vargas, one of our collaborative council members, is coordinating the event, and will send a survey to each member before the meeting to help narrow issues presented.

JUSTICE HARRIET O'NEILL HONORED

Justice O'Neill was honored by the Administration on Children, Youth and Families (ACYF) as the recipient of the 2009 Commissioner's Award in honor of her significant contribution toward the prevention of child abuse and neglect. The award was presented April 2, 2009 at the 17th National Conference on Child Abuse and Neglect in Atlanta, Georgia.

COMMITTEE REPORTS

Basic Committee Summary ([view report](#))

TYC/CPS Project – The workgroup met in January to discuss a memorandum of understanding (MOU) recently signed by the Texas Youth Commission and Child Protective Services to facilitate data exchange to identify the dually managed youth population. Richard Lavallo reported after the committee met that the number identified is 55 youth. At its next meeting, the workgroup will discuss Phase II of the project, which will include an MOU or a rule to address services that are required and those being provided to each youth by the agency responsible. Also, it is unknown if any legislation will pass affecting this population dually managed population. Members had originally planned to meet again April 16, but later agreed to postpone the next meeting until after the legislative session ends.

Travis County has assembled a group to apply for the Breakthrough Series Collaborative Training and Certification, which is aimed at a groundbreaking opportunity to enhance system performance and improve outcomes for children and youth known to both the juvenile justice and child welfare systems – also known as crossover youth. BSC training starts in July and takes approximately 12 months to complete.

The Center for Juvenile Justice Reform is sponsoring a BSC program of intensive study for leaders responsible for juvenile justice, and child welfare policy development and implementation in their jurisdictions at an upcoming symposium in DC. State leaders will hear from advocates as they discuss the challenges youth face as they transition out of the child welfare and/or juvenile justice systems into adulthood. Several workgroup members plan to attend the symposium on April 23, 2009.

Appleseed PMC Project – Appleseed reports that the study of issues concerning children under CPS’s permanent managing conservatorship (PMC) is progressing in both the quantitative and qualitative research components. Just this month, Appleseed received the quantitative data from CPS that will allow its pro bono consultant, RPC Consulting, to generate information directly from the data. Stakeholder interviews have begun in five large jurisdictions: Houston, Dallas, San Antonio, Austin and Fort Worth. Under Fulbright and Jaworski’s leadership, more than 20 attorneys in these cities have been trained to conduct stakeholder interviews. Additional training via video (thanks to the pro bono videographer Austin Video Works) for the selected cluster court jurisdictions will commence later this spring. Appleseed has also been working on H.B. 704, by Rep. Rose, which extends court jurisdiction in limited circumstances for youth who age out of CPS, with pro bono assistance from McGinnis, Lockridge and Kilgore.

Bench Book – The Bench Book Committee met on March 2, 2009, to discuss issues including setting a budget, securing access to Lexis or Westlaw for judges to have ready and consistent access to case law when using the Bench Book, and determining which resources to use to write the sections. Staff is exploring how to provide judges access to case law as a service and what it would cost. Budgetary issues also involve the cost to update and maintain the Bench Book on the Texas Center for the Judiciary website, which is approximately \$25,000 for initial implementation (a maintenance amount has not yet been identified). Travel expenses committee members will incur were budgeted at \$7,500.

The committee agreed that Commission interns (law students) supervised by Tina Amberboy and Tiffany Roper would do the bulk of the research and writing, with workgroup members providing editorial services. The Bench Book will not only include statutes and caselaw, but also a section for orders with reasonable efforts language on each order.

The committee will meet on June 4, 2009, at the CPS Judicial Conference, at which time staff will update everyone on contacts made with Lexis and Westlaw, and which Commission intern has been assigned to the project.

Legal Representation Study – The Request for Proposal for the Commission’s Legal Representation Study has been completed. The study will examine: the strengths and weaknesses of different appointment models and the feasibility of implementing a model on a state or county-wide basis; training requirements used by counties or the judges making appointments, including a survey regarding the need for certain types of training; the extent to which counties use the attorney ad litem in the dual role as defined by the Texas Family Code; any method employed by counties or judges to evaluate the quality of representation provided; a section detailing compensation, including whether fees are paid hourly, as a flat fee per hearing or per case, or if

different fees are paid for in-court versus out-of-court work; the total amount each county spends annually on court appointments in child protective services cases broken down by child and parent representation; and a final report that includes recommendations reflective of the results gathered. The deliverables include a Project Plan by November 1, 2009; an Interim Report by April 30, 2010; and a Final Report by than August 31, 2010.

Update subsequent to Basic Committee Meeting held March 3, 2009 – Travis County has hired the managing attorney for the Office of Child Representation and the managing attorney for the Office of Parent Representation. The offices are administratively assigned to the county department of Criminal Justice Planning. The two managing attorneys are writing policies and procedures, hiring staff, and setting up offices. The oversight board has met to consider and recommend to the Travis County Commissioners Court slight adjustments to job descriptions and pay scales. Each office anticipates that it will be serving clients before the next Commission meeting.

Training Committee Summary [\(view report\)](#)

Attorney Training – Through CIP funding and with the support of the Commission, the National Association of Counsel for Children (NACC) will conduct 14 one-day trainings around Texas for attorneys representing children, parents, and DFPS in CPS cases. The training will cover state and federal statutory material, case law, and best practices for representation in these complex cases. Additionally, the NACC is meeting with local focus groups prior to each training event to discuss local training needs and other issues.

The NACC is working on the agenda, presentations, and manual for the trainings. Commission staff is currently editing the manual. NACC is also filming experts on child abuse related subjects, which will be included in the training material. A copy of the manual will be available for every attendee at the trainings.

Tentative training date schedule:

Midland	May 13
Amarillo	May 15
El Paso	June 5
Austin	June 18
San Antonio	June 19
Beaumont	July 9
Houston	July 10
Tyler	September 16
Texarkana	September 18
Waco	October 20
Fort Worth	October 22
Dallas	November 6
Harlingen	December 2
Corpus Christi	December 4

Attorney Scholarships – The Training Committee set aside \$25,000 for attorney scholarships to send Texas attorneys who represent parents in CPS cases to the upcoming Parent’s Attorney Conference sponsored by the American Bar Association Center on Children and the Law in May. The committee originally considered using the \$25,000 to provide approximately 15 scholarships on a first-come-first-served basis with some discretion to geographic and regional balance. However, the Commission received over 30 scholarship applications by the deadline of March 31, 2009. The Executive Director sought additional funding through the Executive Committee to accommodate all applicants. A report regarding the number of Texas attorneys in attendance, an evaluation of the content, and a formal request for ratification by the full Commission for the full amount awarded in scholarships will be submitted at the August Commission meeting.

Mediation Workgroup – Committee members and mediation experts formed a workgroup to plan the roundtable on CPS mediation scheduled for June. The Roundtable Series is a new Commission initiative aimed at bringing together subject matter experts, judicial and executive branch leaders and key policy-makers to discuss issues affecting child protection in Texas. The goal is to advance ideas that result in sound executive agency policy, carefully planned legislation, and improved judicial handling of child protection cases. The mediation roundtable will be by invitation only and extended to attorneys and other persons interested in CPS mediations. The roundtable participants will discuss a recent study of CPS mediations and developing best practices for courts, lawyers, and mediators.

Child Welfare Law Conference – Commission staff is working with the NACC to bring its annual child welfare law conference to Texas in 2010. The annual NACC conference offers nationally known expert speakers on multi-disciplinary topics related to legal representation in child abuse and neglect cases. If the conference is held in Texas, there will be a significant number of scholarships available for Texas attorneys to cover the conference registration fees. Attendees will be responsible for their travel expenses and staff does not anticipate offering any type of travel reimbursement since the Commission is committing \$100,000 to sponsor the conference. Commission staff will also determine with NACC whether the Child Welfare Law Certification Exam and the training required to sit for the exam will be part of the final arrangement with NACC. Approval by the Texas Board of Legal Specialization of the NACC CWL Certification application is imminent.

Upcoming Judicial Conferences:

Beyond the Bench - May 3-5 in Dallas

CPS Judges Conference - June 3-5 in Dallas

Associate Judges Conference - July 6-8 in Austin

NCJFCJ Annual Conference - July 13-15 in Chicago

Technology Committee Summary ([view report](#))

Judicial Webpage – As of March 12 there were 99 authorized users. And although 22 new users were added in February, none have logged onto the system. Of the 17 OCA Child Protection Courts, eight Judges and six court coordinators had registered to use the system. A user survey was sent out to help determine reasons for the low usage

frequency. Of the 26 users who responded to an online survey, 92 percent said they thought the information was useful and that they may use the system.

Status of Child Protection Case Management System/SDCMS – The old SDCMS still has major problems with data leaking and file synchronization. A committee of OCA child protection court staff is working to implement the new Child Protection Case Management System (CPCMS) to replace SDCMS. The project is still on schedule and OCA anticipates a roll-out by September or October. The OCA is seeking to increase the amount of grant funds for this project and has recently submitted the documentation to the CIP grant administrator for review. Because the additional grant funds will be needed before the full Commission meets in August, the Commission staff will seek approval for the additional expenditures from the Executive Committee and submit for ratification at the August meeting.

CPCMS and Performance Measures – The Department of Justice and the National Center for State Courts and NCJFCJ issued the Toolkit on Performance Measures in Child Welfare Cases. The CPCMS will incorporate an estimated 19 of the toolkit's 31 performance measures. Incorporating the toolkit measures into CPCMS is also adding to the cost of completing the project timely.

Video teleconferencing – The workgroup has completed its initial review of the protocol and potential technologies available and its final report is pending.

Dallas County application for video teleconferencing assistance – this matter is pending until the video-teleconferencing workgroup finishes establishing protocols.

Legislative Update

The Commission hired a legislative research assistant to monitor legislative activity affecting the child protection statute and child protection courts. A system was developed to log all relevant bills filed into a wiki tool, prioritize each bill by a designation of Priority 1, 2, or 3. All Priority 1 bills are tracked closely by the staff while Priority 2 and 3 bills are monitored. The staff has provided resource papers upon request of legislators and their staff and the Executive Director has provided resource testimony upon request.

Commission staff has provided Resource Papers on HB428, HB974, HB1011, HB1315, SB493, SB788, SB1032, SB1064, SB1068, and SB1767.

Testimony provided on SB493 ([view testimony](#))

Example of Resource Paper on SB 1767 ([view resource paper](#))

STAFF-DIRECTED PROJECTS (not included in a committee report)

Summit III – Staff continues to work with the National Center for State Courts, the National Council of Juvenile and Family Court Judges, Casey Family Programs, the

National Association of Public Child Welfare Administrators, and the Conference of State Court Administrators to plan the 3rd National Judicial Leadership Summit on the Protection of Children, set for October 15-17, 2009 in Austin. The Summit's theme, "Many Things We Need Can Wait – A Child Cannot, His Name is Today," is based on poem published in 1924 by Gabriela Mistral, an elementary school educator and Nobel Prize winner for literature in 1945. The Summit will include workshops and peer exchange events about improving collaboration, education tools, compliance with the Foster Connections Act, legal representation for parents, child participation and engagement, and permanency efforts including meaningful transition planning. Other topics include performance measures and the recently published tool kit, crossover of dually managed youth, technology, kinship care, and disproportionality issues.

Child and Family Services Review – In working with DFPS on the Program Improvement Plan (PIP), Commission staff has focused primarily on addressing permanency outcomes for children in the conservatorship of the state. The Executive Director is a member of the CPS PIP team. Some proposed PIP strategies include exploring the possibility of using the Commission's CARE for Kids program as a vehicle to provide judges PMC data for review to examine the decision-making process and how judges determined that PMC as a final result was appropriate. Other projects include the use of Commission Roundtables (see page 8). Proposed roundtable topics responsive to the permanency outcomes strategy include mediation, PMC without termination of parental rights (TPR), and providing appropriate notice to parties for the opportunity to be heard.

Another proposed project that is not included in the PIP but addresses the same issue is to create a "PMC Strike Force," a team that would focus on getting permanent homes for the state's PMC kids. Commission staff met with several stakeholders in March to discuss elements of the proposed Strike Force projects. The group included representatives from CASA, Casey, the Center for Public Policy Priorities (CPPP), DFPS, OCA, and the Commission. While the project's size, scope and overall objective may change before a plan is finalized, the group agreed it would initially focus on PMC kids under the age of six, in Region 3 (Dallas/North Texas). Project components include DFPS pulling data on that specific Region 3 population and their siblings, regardless of age. A three-member team will be assembled and will include a retired social worker, an attorney/DFPS legal representative, and a child representative who may be a volunteer advocate, a guardian ad litem (GAL) or attorney ad litem (AAL). DFPS will try to contact known family members again and search for other family members. A CASA representative or the GAL will help DFPS with the family finding efforts and provide advocacy services to the youth involved.

The workgroup will develop at least two survey tools for auditing each case in a consistent manner. The project social worker will use one survey tool to review the case from the beginning and attempt to determine what happened in the case that led to PMC, including whether a mediated settlement agreement was involved. The social worker will refer the case for legal review and an attorney will use a different survey tool to determine what happened with the legal case, including whether the case was settled by mediation. The workgroup will develop a protocol to evaluate the completed reviews.

Additionally, CASA is initiating PMC pilots in three counties, which will be instructive to the Strike Force project. Courts must be contacted about conducting additional court reviews. Commission staff will contact the SMU law school about its interest in working on the project as AAL. The Commission has requested financial support from Senate Finance and will submit a request for financial support from private foundations. Commission staff is also charged with identifying a fiscal agent as well as a PhD student to write a report evaluating the project. DFPS will research whether Fostering Connections funds are available and can be used to train families who are reconnected as a result of the project.

Roundtable Series –The Roundtable Series is a new Commission initiative aimed at bringing together subject matter experts, judicial and executive branch leaders, and key policy-makers to discuss issues affecting child protection in Texas. The goal is to advance ideas that result in sound executive agency policy, carefully planned legislation, and improved judicial handling of child protection cases.

The Commission held its first roundtable discussion on February 27, 2009 on the topic of the July 28, 2008, 5th Circuit opinion styled *Gates v. Texas Department of Protective and Regulatory Services*, and the resulting Department of Family and Protective Services policy memo issued on August 22, 2008. Although consensus regarding the implications of the 5th Circuit's holdings and the resulting DFPS policy was not reached, the event was a success in that it brought together more than 35 state leaders to discuss the U.S. Constitution, the Texas Family Code, DFPS policy, and the realities of applying each in real-time situations involving a child's health and safety while balancing parent and caregiver constitutionally protected rights. The feedback from participants was overwhelmingly positive and support for additional roundtable events was clearly established. Commission staff is working on a brief report about the logistics of the roundtable, including positive feedback about the project and suggested improvements.

Disproportionality – Commission staff continues to work with DFPS on disproportionality initiatives and attended the second meeting of the Statewide Task Force on Disproportionality on March 16, 2009. The group worked extensively on the Task Force Charter and agreed to meet again on September 25, 2009. The Task Force was updated on the Commission's efforts to integrate disproportionality training into judicial education curriculum for 2009. A program called Courts Catalyzing Change (CCC): Achieving Equity and Fairness in Foster Care, was launched in 2008 by the Casey Family Programs, The Office of Juvenile Justice and Delinquency Prevention, and the National Council of Juvenile and Family Court Judges Permanency Planning Division. The NCJFCJ Permanency Planning Division will likely provide judicial education at the Child Protection Services Judicial Conference scheduled for June 3 – 6, 2009, and possibly at the Child Protection Court Training (formerly known as Cluster Courts) in October 2009. The CCC project is also developing a tool kit and bench card. Disproportionality materials published by CCC will be included as part of the CPS Judges Bench Book being developed by the Commission's Bench Book workgroup.

BUDGET ([view budget](#))

Basic Projects Budget – Changes since January 16, 2009, include setting aside up to \$12,000 for the Commission's legislative research assistant salary. This expenditure is

taken from the Commission's Budget line item of \$40,000. No significant changes to the budget have been made since the January 16, 2009 meeting.

Technology Budget – No changes since January 16, 2009.

Training Budget – Changes since January 16, 2009, include setting aside \$41,000 to pay for attorney scholarships for Texas attorneys to attend the first ABA Parent's Attorney Training Conference in May. Because the Commission meeting scheduled for April 3rd was not held and the next meeting is scheduled for August 21, the Executive Director sought approval for the expenditure from the Executive Committee. There was a tremendous amount of interest in the scholarships to attend the attorney training and the applications came in from all around the state, including urban and rural locations and all had judicial support. Each attorney will receive a \$1,250 scholarship to reimburse for costs for travel, meal per diem for three days, registration for the conference, and up to three nights at the designated hotel.

The Commission staff believed this was a tremendous opportunity to bring some critically needed attorney training and education back to Texas as we strive to fulfill our Commission strategy to improve legal representation in CPS cases.

Commission staff will provide a full report regarding the attendance, an evaluation of the content, and ratification of the \$41,000 expenditure to the Commission at our August meeting.
