



Texas Comptroller Says State Foster Care in Crisis “Appalled” by Conditions; Calls For “Massive Overhaul”

by Wendy Lilliedoll

In 2003, following a series of highly publicized tragedies in foster care nationwide, Texas Comptroller Carole Keeton Strayhorn launched an investigation into the Texas Department of Protective and Regulatory Services (DPRS).¹ As part of the investigation, Strayhorn and her staff made unannounced visits to foster care facilities across the state. They also reviewed records and spoke to people within the system, including the foster children it is designed to serve. On April 6, Strayhorn’s office released a special report entitled *Forgotten Children*, documenting the crisis in the Texas foster care system and calling for a massive system overhaul.²

Background

In 2003, Texas served 26,133 children in its dual, public-private foster care system. In that system, the state distributes funds and oversees the provision of services, while both the state government and private child-placing agencies (CPA) run foster care programs.

Whether a child ends up in a state-run or CPA program depends largely on the outcome of the child’s initial assessment. This assessment influences the child’s placement and

services, and defines the reimbursement rate paid to the child’s care provider. Reimbursement rates vary dramatically. The basic individual reimbursement rate is \$20 per day, but caregivers for children with the most complex needs receive as much as \$277 per day.³ As a general rule, the state cares for children at the lower service levels, while CPAs and residential treatment centers serve children with greater needs, and higher reimbursement rates.

The Findings: A System in Crisis
Forgotten Children paints an unsettling picture of the Texas foster care system. In her executive summary, Strayhorn notes that:

Some foster children have been moved among 30, 40 or even more all-to-temporary “homes.” Some have been sexually, physically, and emotionally abused while in the system; some have run away and joined the ranks of the missing. A few have even died at the hands of those entrusted with their care.⁴

The system’s problems are many. Texas foster youth experience unstable and inadequate placements and services. These problems are then compounded by DPRS’s deficient licensing, inspection, and contracting practices.

Lack of Stability

Texas foster youth are moved frequently; often, children are moved hundreds of miles from their last placement, and from their biological families. During the first three years that a child is in foster care, he or she will face about two new placements each year. For some children, the lack of permanency has been even more glaring. Twelve of the children who were in foster care in 2002 had experienced 40 or more placements.

Deficient Services

Although many foster children live in clean, safe environments with loving caregivers, too many others do not. In far too many cases, DPRS has allowed children to spend years in overly restrictive, unsafe environments, without appropriate services.

Despite the requirement that foster children be in the least restrictive environment,⁵ DPRS offers a perverse incentive favoring restrictive settings—paying higher reimbursement rates for such placements. Even worse, the agency’s inadequate licensing and monitoring practices leave children in unsafe and unsanitary facilities. Children with acute needs are spending months and years in therapeutic camps licensed under lax temporary facility standards, where health and sanitation violations often go unchecked.

¹ The Comptroller has a statutory obligation to monitor the economy and the state’s expenditures.

² Texas Comptroller of Public Accounts, *Forgotten Children: A Special Report on the Texas Foster Care System*, (April 2004), <http://window.state.tx.us/forgottenchildren/>.

³ This means annual reimbursements range from \$7300 to \$101,105. The \$350,400,000 DPRS received for reimbursements in 2004 came (in roughly equal proportions) from state general revenue, federal Title IV-E payments, and federal Temporary Assistance for Needy Families (TANF) funds.

⁴ *Forgotten Children* at Executive Summary.
⁵ Tex. Fam. Code Ann. § 263.503(2) (2003).

In addition, the Comptroller's report documents a shocking prevalence of abuse and neglect. Foster youth often come to the system because those expected to care for them neglected that charge. Once in the hands of the state, these children are too frequently experiencing continued abuse, both from their new care providers and from their peers. Moreover, DPRS has failed to take steps to minimize the risks of abuse-related injuries and deaths. The agency has allowed children with histories of sexual offenses and violent crimes to be placed with other children, and has failed to investigate and publicize the details behind preventable tragedies.⁶

Foster children are harmed further by DPRS's failure to offer appropriate services. Too many children are provided an abundance of medication, and little else, to address their health and educational needs. The report revealed that many foster youth are taking multiple psychotropic medications with serious side effects, some of which have not been studied in children.⁷ While the foster care system has been liberal in the distribution of medication, services to address the needs of medically fragile and special needs children have been far less abundant. As a result, too many children with developmental disabilities are institutionalized, and too few children leave the system with adequate educational training.

Inadequate Oversight

The report also presents a bleak picture of DPRS's monitoring performance. High caseloads keep caseworkers from spending adequate time with their clients. CPAs complain that they are held to a substantially higher standard than state-run facilities. Worse, even the standards applied to CPAs are inadequate to ensure that children are safe, and receiving basic care.

Caseworkers are supposed to visit children at least once a month. But DPRS itself reports that in the first three months of 2004, nearly 27 percent of children did not receive a single caseworker visit. High child-to-caseworker ratios are undoubtedly a factor in the failure to meet visitation standards. Some caseworkers are responsible for as many as 35-40 children.⁸ These high caseloads, coupled with low pay and emotionally taxing work, also yield high caseworker turnover. In 2003 alone, 23.5 percent of caseworkers left DPRS.

DPRS also has a history of inadequate licensing standards, weak contract monitoring and insufficient investigations. Although state law requires annual facility inspections, only 42 percent of surveyed facilities received complete inspections in both 2002 and 2003. The state's failure to oversee licensees allows the same problems to fester in the same facilities over a period of years.

Even when an investigation or public report does uncover serious violations, facilities that are in stark noncompliance with DPRS policies often receive little more than a slap on the wrist. An Austin newspaper published sheriff's department figures indicating that over a four-year period, deputies responded to more than 350 calls at a single foster youth camp in the area. Even when faced with such clear evidence of problems, DPRS has no policy in place requiring review. Of the more than 600 facilities operating statewide in 2003, DPRS had revoked only one license, suspended four, placed one facility on probation, and placed six others on evaluation status.

Life After Foster Care

Not surprisingly, the inadequacies of the Texas foster care system have lasting effects upon foster youth. Upon leaving the system, these youth are more likely than their

peers to face homelessness, poor educational attainment, criminal behavior, drug addiction, mental illness, and health problems. Thirty-two percent of the 900 children that exit Texas foster care every year leave without a high school diploma or its equivalent. In addition, 41 percent of former foster youth have experienced homelessness. Many of these young people, facing the prospect of life on their own without adequate educational or career training, resort to drug use and criminal activity.

Comptroller Recommendations

The report recommends a complete overhaul of the foster care system, from overall system structure to minute details of its implementation.

The study recommends elimination of the dual system, with services to be provided by CPAs and the state retaining its regulatory function. This will allow the state to focus on oversight, while CPAs compete for contracts to provide direct services. Doing so, suggests *Forgotten Children*, will enhance the quality of the system by allowing DPRS to conduct unbiased inquiries into every facility, and to make contracting and funding decisions based on the outcome of those investigations.

CPAs serve more children at lower cost than the public system. Private caregivers currently provide 73 percent of direct services, and have sufficient capacity to address the remaining 27 percent. In addition, their access to charitable contributions allows them to provide basic-level foster care and additional services for \$1.21 to \$2.29 less per child per day than the public system, despite paying foster families more.

Outsourcing would allow the state to save substantial sums, through the elimination of an estimated 1,055 full-time state employee positions. These savings should be directed toward enhanced care and monitoring. As a

⁶ For example in one case, the DPRS website addressing licensing violations stated that a facility had used unreasonable force during a restraint, but failed to note that the child died after the restraint.

⁷ A physician reviewing the foster youth's medical records voiced several concerns about prescription drug regimens. First, the physician asked whether the children's health needs warranted the use of such aggressive courses of medication. The

physician wondered what testing had been done to confirm these diagnoses. In addition, the physician suggested that if some of the children were as seriously disturbed as their medication levels indicate, they may not be in appropriate placements.

⁸ Child Welfare League of America recommends a ration of one caseworker to every 12-15 clients.

first step, the state should change reimbursement mechanisms, providing incentives for avoiding institutionalization, and reducing reliance on restrictive settings. In addition, the state should implement outcomes-based contracting. DPRS should assess providers based on safety, placement stability, maintenance of familial connections, and shorter stays in foster care. As part of its evaluations, the state should conduct unannounced site visits and financial audits. These evaluations should then be used in contracting decisions.

The state system currently serves the majority of basic-care kids, and CPA contracts allow providers to pick and choose among children. Successful outsourcing will require CPAs to accept low reimbursement cases, and contracts with “no reject, no eject” clauses.

Direct More Dollars Into Care

The report also advises the state to seek federal funds for implementing creative, cost-effective programs. According to the investigation, Texas is not fully capitalizing on Medicaid and Title IV-E funds. In order to remedy that, the state should promote Medicaid training and should seek Title IV-E waivers for programs, to reduce unnecessary institutionalization, restrictive placements, and lengthy foster care stays. DPRS also should consider pooling federal, state, and local funds to create comprehensive programs serving foster youth.

Increase Accountability

Not all of the oversight problems in Texas foster care are products of the dual system and the attendant DPRS self-monitoring. In response to the systemic lack of accountability, the report recommends formalizing and intensifying monitoring efforts.

First, caseworkers and care providers must document caseworker visits and all serious incidents, and DPRS should use this information in program evaluations. In addition, licensing requirements

must be exacting, and applied rigorously to all facilities. Where a facility compromises the health and safety of foster youth through its failure to comply with standards, it should lose its license. In turn, license revocation should carry serious consequences, such as a permanent bar on any board member, officer, or lead administrator holding a license or operating a facility in the state. Finally, multiple agencies—including the Department of Health, the State Auditor’s Office, and the Health and Human Services Commission—should involve themselves in system inspections.

Ensure Children’s Safety and Future Success

DPRS’s principal goal must be to ensure the health and safety of children within the system. *Forgotten Children* encourages the state to conduct comprehensive background checks, thoroughly review complaints, limit placements, and stop placing children with peers who have histories of violent crimes and sexual predation. In addition, the report recommends the creation of a medical review team to monitor diagnosis, therapy and treatment, particularly the intensive use of medication.

The Comptroller’s final recommendations pertain to the dire situation of youth exiting the foster care system. As a first step to addressing the education gaps, training deficiencies, and housing crises that plague former foster youth, the state must improve information collection. Foster youth’s success in the educational system should factor into district assessments, and school agencies should develop programs targeting foster youth. The state should also seek federal “nontraditional independent living funds” to help foster children manage in the adult world.

Strayhorn’s report also suggests that DPRS should create a foster grandparent program pairing foster youth with seniors in their neighborhoods. The recommendation recalls a comment from the press release

announcing the release of *Forgotten Children*. In that, Strayhorn modified her political catchphrase to note that “[t]his investigation turned this One Tough Grandma into One Heartbroken Grandma.”⁹

Link to the full report:

www.cpa.state.tx.us

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⁹ Press Release, Texas Comptroller Carole Keeton Strayhorn, Comptroller Strayhorn Laments “Forgotten Children” In State’s Foster Care System, Outlines Massive Overhaul (Apr. 6, 2004), <http://www.window.state.tx.us/news/40406foster.html>.