

FOSTER CARE SYSTEM

Foster care system “Broken”

“Texas’s foster care system is broken, and it has been that way for decades. It is broken for all stakeholders, including DFPS employees who are tasked with impossible workloads. Most importantly, though, it is broken for Texas’s PMC children, who almost uniformly leave State custody more damaged than when they entered.” (Page 254)

Systemic failure to monitor and investigate facilities

“A typical investigation error rate for a child welfare system is 2% or 3%. RCCL’s is 75%. This is staggering, and it means that many abused children—for whom a preponderance of evidence indicated that they were physically abused, sexually abused, or neglected—go untreated and could be left in abusive placements. Even if by some unrelated event a child found reprieve from these facilities, the adult perpetrators can still accept new foster children with nothing in their record indicating a risk. Even with correct dispositions, however, DFPS places LFC children at an unreasonable risk of harm. After the reviews just discussed were completed, “No licenses were suspended . . . None were revoked . . . No penalties were established on any of these facilities . . . [and] the State didn’t move any of the children.” In short, little changed as a result of finding out that children were abused and neglected. The Court is convinced that RCCL “simply doesn’t work. It’s broken.” (Page 202)

Few appropriate placements available for foster children

It is beyond question that DFPS’s placement array is inadequate. First, “there is an imbalance in geographic distribution of services.” . . . As a result of Texas’s inadequate array, 39% of children are placed out of region and 60% are placed out of county. (Page 218)

Second, DFPS’s inadequate array results in “children and youth not placed with their siblings due to unavailability of appropriate placement resources.” . . . Yet Texas’s foster children “are separated from their siblings at an alarming rate.” . . . As of June 2014, only 64.7% of siblings groups were placed together. For comparison, Tennessee places 84% of sibling groups together. (Page 219)

Third, foster children are placed in inappropriate facilities. Specifically, DFPS relies too heavily on congregate care facilities, which “are not conducive to supporting youth in engaging activities that help them ‘practice’ for adulthood, or to helping young people build social capital.” As of September 2012, 13.2% of children who were age 12 or younger, and who had been in care for at least 18 months (i.e., PMC), were placed in either group homes or institutions. The nationwide average is 4.9%. Texas ranks second worst, and the State is increasing its reliance on group care settings. (Page 219)

Fourth, sexually aggressive children are not placed in single-child homes, the safe and appropriate placement. (Page 220)

Improvements Missing with Foster Care Redesign

DFPS points to Foster Care Redesign as its reasonable response. Launched in January 2010, Foster Care Redesign is DFPS’s solution to its inadequate array. Under DFPS’s old system or “legacy system,” the agency contracts with around 300 private CPAs for 90% of foster placements. DFPS directly provides the remaining 10%. The legacy system uses an “open enrollment” process to procure residential childcare services, but it does not ensure that providers locate in places where services are needed, which creates the geographic imbalance in services that forces children out of their home communities. . . . The legacy system also creates perverse incentives by paying providers more money for children with higher service levels. It is therefore in a provider’s financial interest for children to not improve. (Page 229)

Foster Care Redesign does away with “open enrollment.” Instead of contracting with private providers to run operations wherever they choose, Foster Care Redesign contracts with “Single Source Continuum Contractors (SSCC) that provide a full continuum of paid foster care services designed to meet the needs of all children who enter care in the designated [geographic] area” that DFPS chooses. . . . Foster Care Redesign also does away with the payment incentive structure. (Page 230)

In the five years of Foster Care Redesign, DFPS has entered only two SSCC contracts— one was an abject failure, and there is no data on the other. The first SSCC, Providence Service Corporation, was hired by Specia in spite of recommendations not to hire them “based on Inconsistencies and Areas of Risk.” . . . Only 57.9% of children under Providence’s management were placed in foster family homes, compared to 70.3% of children statewide, and 70.8% of children in the regions where Providence operated. Children still slept in CPS offices because Providence “wasn’t finding placements for them.” Moreover, Providence failed to place children close to their homes—the central aim of Foster Care Design. In fact, Providence only placed 29% of children within 50 miles of their home—7% below their contract baseline, and worse than the legacy system’s figures. Despite Providence’s abysmal performance, DFPS did not end the contract in part out of fear that Providence would sue them. Providence quit after a year and a half because they lost \$2 million and could not make the contract work.

DFPS has only contracted with one other SSCC, but performance data is not yet available. That said, DFPS almost contracted with Lutheran Social Services of the South before the Providence contract. DFPS tentatively awarded an SSCC contract to Lutheran, but backed out at the last moment because of an adverse licensing action against them. Defendants could not tell the Court the reason for the adverse licensing action, though Reinhardt, the Director of Foster Care Redesign, agreed that it “could have been” related to the deaths of children in Lutheran’s care around that time. (Page 231)