

September 25, 2007

9:00 A.M.

Public Hearing
Regarding the Creation of a
Judicial Commission for
Children, Youth and Families

* * * * *

SUPREME COURT OF TEXAS

Chief Justice Wallace B. Jefferson
Justice Phil Johnson
Justice David Medina
Justice Nathan L. Hecht
Justice Harriet O'Neill
Justice Scott A. Brister
Justice Paul W. Green
Justice Don R. Willett

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<p>1 Honorable Rhonda Hurley ----- 139</p> <p>2 Barbara Elias-Perciful ----- 144</p> <p>3 Lanis McWilliams King ----- 148</p> <p>4 Dr. Connie Almeida ----- 153</p> <p>5</p> <p>6 BREAK</p> <p>7 Constance Barker ----- 159</p> <p>8 Trista Miller ----- 162</p> <p>9 Susan Hopkins Craven ----- 169</p> <p>10 Richard Lavallo ----- 174</p> <p>11 Roy Block ----- 180</p> <p>12 Barbara Richardson ----- 185</p> <p>13 Irene Clements ----- 188</p> <p>14 Joe Gagen ----- 193</p> <p>15 Honorable Gil Jones ----- 196</p> <p>16 Mike Foster ----- 202</p> <p>17 Honorable Dean Rucker ----- 208</p> <p>18</p> <p>19 CLOSING REMARKS</p> <p>20 Justice O'Neill ----- 211</p> <p>21 Chief Justice Jefferson ----- 212</p> <p>22 Reporter's Certificate ----- 213</p> <p>23</p> <p>24</p> <p>25</p>	<p>1 cannot succeed without collaboration from all who</p> <p>2 have an interest in child protection, from attorneys</p> <p>3 to counselors, from caseworkers to judges and law</p> <p>4 enforcement and the media and foster care workers</p> <p>5 and future adoptive children and the parents, all of</p> <p>6 the stakeholders in this important work. This is a</p> <p>7 community effort, to be sure, but we recognize that</p> <p>8 the courts must play a central role, and that's why</p> <p>9 we're so grateful that you are here today. Thank</p> <p>10 you for your participation.</p> <p>11 One thing that we discovered when we</p> <p>12 were at the national summit is that a child who is</p> <p>13 entering the system is overwhelmed by the process,</p> <p>14 and even one 30-day extension of time, the sort of</p> <p>15 thing that lawyers often agree to, can mean a year</p> <p>16 to a child in the mind of a child. And so we're</p> <p>17 here today to ask you for your help in helping to</p> <p>18 make this system more efficient and fair and to</p> <p>19 protect our children with greater care. So thank</p> <p>20 you for being here today.</p> <p>21 Justice O'Neill will be emceeding this</p> <p>22 day, but let me give just a few ground rules. We</p> <p>23 have asked for rather short presentations by the</p> <p>24 numerous speakers that we have, and if you'll keep</p> <p>25 to that time, we think that we can hear from</p>

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1 everybody by early afternoon. We plan to take two
 2 breaks, one at 10:30 and one at noon; and if we are
 3 on time, we should conclude these proceedings by
 4 around 1:30 or so this afternoon.
 5 And so now I would like to turn it
 6 over to Justice O'Neill who has done just an
 7 incredibly impressive work on this project.
 8 Justice O'Neill?
 9 JUSTICE O'NEILL: Thank you,
 10 Mr. Chief Justice. I want to welcome you here,
 11 first of all, for this historic hearing. The Court
 12 scheduled this hearing to take place before we begin
 13 hearing cases in the new term, and that is to
 14 emphasize the important role that courts play in
 15 protecting our children in foster care and improving
 16 outcomes for foster children.
 17 As the Chief Justice said, this
 18 hearing is a culmination of a process that began
 19 several years ago when Chief Justice Jefferson and I
 20 were privileged to be part of the Texas team at a
 21 national summit to improve the nation's foster care
 22 system. That summit resulted in a national call to
 23 action by the National Center for State Courts to
 24 help reduce the length of time that children spend
 25 in foster care and to improve the outcomes for

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1 children who are living in foster care.
 2 On any given day in America there are
 3 more than 500,000 children who live in foster care.
 4 In Texas alone there are approximately 20,000.
 5 Nationwide statistics show us that almost half of
 6 these children spend at least two years in the
 7 system, and nearly 20 percent will spend five years
 8 or more in the system.
 9 Foster care is often an essential
 10 step to keeping children safe from abuse or neglect,
 11 but court delay can often extend the time between
 12 when children enter the system and when they are
 13 placed in safe and permanent homes. As the
 14 Minnesota Chief Justice put it, when a court case
 15 sits on the docket a child sits in foster care.
 16 Courts act as gatekeepers for
 17 families in crisis. No child enters foster care,
 18 leaves foster care, or does anything significant in
 19 between without a court order and court supervision.
 20 To make good decisions courts must have input from
 21 the family, department placement and service
 22 providers, and other court participants.
 23 Unlike other cases, child protection
 24 cases require a collaborative and a
 25 multidisciplinary approach to decision making.

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1 Attorneys and judges need specialized training in
 2 areas like substance abuse, domestic violence, and
 3 mental illness, and courts must be equipped to
 4 respond in a manner that respects the family's needs
 5 while mindful of the child's need for timely
 6 resolution.
 7 To improve our foster care system
 8 several care strategies have been identified. They
 9 include fostering collaboration among courts and
 10 executive branch agencies and providing judicial
 11 leadership in championing the needs of children in
 12 the system and effecting changes to improve
 13 outcomes.
 14 At the end of last year this Court
 15 appointed a Consultative Group to advise the Court
 16 on these key strategies. The group's cornerstone
 17 recommendation was for the Court to establish a
 18 permanent Commission on Children, Youth, and
 19 Families to serve as an umbrella organization for
 20 efforts to strengthen courts for participants in the
 21 Texas child protection system. The Court has sought
 22 and continues to seek input from the various
 23 stakeholders in the child protection system, and
 24 that is what brings us here today. We've had a very
 25 enthusiastic response from the public about this

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1 hearing, and many have signed up to provide
 2 comments. We're happy about that.
 3 We're especially honored to welcome
 4 retired Judge Leonard Edwards from the Santa Clara
 5 Superior Court in California. Judge Edwards is the
 6 Judge in Residence at the California Center for
 7 Families, Children and the Courts. His awards and
 8 his accolades are too numerous to list them all
 9 here, but I will say that in 2004 he won the
 10 prestigious William H. Rehnquist Award for Judicial
 11 Excellence, and he has been a pioneer nationally for
 12 improving our foster care system. We're looking
 13 forward to hearing from you, Judge.
 14 Also here from California is
 15 Chris Wu. He is the Executive Director for the
 16 California Blue Ribbon Commission on Children in
 17 Foster Care. Mr. Wu and Judge Edwards have been
 18 invaluable in providing information as we consider
 19 creating a commission here in Texas, and we very
 20 much appreciate you traveling here today.
 21 We're also pleased to welcome
 22 Dr. David Sanders, a Ph.D. from Princeton with a
 23 Ph.D. in clinical psychology. He is the Executive
 24 Vice President of Systems Improvement with the Casey
 25 Family Programs, which is a national operating

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<p>1 foundation whose mission is to provide, improve, and</p> <p>2 ultimately prevent the need for foster care.</p> <p>3 I also want to welcome and to</p> <p>4 especially thank the members of our Supreme Court</p> <p>5 Task Force on Foster Care, and particularly Judge</p> <p>6 John Specia who has led that task force, for</p> <p>7 their dedication and their leadership. Several of</p> <p>8 those members are here today. The Honorable</p> <p>9 Patricia Macias, she's one of our very own from</p> <p>10 El Paso. She serves on the task force. She also</p> <p>11 serves on the Pew Commission and is the president</p> <p>12 elect of the National Center for Juvenile and Family</p> <p>13 Court Judges.</p> <p>14 The Honorable Hal Gaither, I don't</p> <p>15 know if he's here, Senior District Judge, but he</p> <p>16 plans to be here; the Honorable Gil Jones, Judge of</p> <p>17 the 33rd District Court; and Dean Rucker, Judge of</p> <p>18 the 318th District Court and Presiding Judge of</p> <p>19 the 7th Administrative Judicial Region of Texas. We</p> <p>20 want to thank you for your hard work on the task</p> <p>21 force and for being here. And I want to thank</p> <p>22 everyone for taking time out of their busy schedules</p> <p>23 to be here today. You do important work, and we</p> <p>24 want to hear about it.</p> <p>25 We do have a tight schedule, so we're</p>	<p>1 the state and lawyers and experts that have worked</p> <p>2 in this area. They work tirelessly on these issues</p> <p>3 and provide leadership to make courts more</p> <p>4 responsive to the sensitive needs of children and</p> <p>5 families. I would like to thank these</p> <p>6 individuals -- many of them have served since the</p> <p>7 inception of the task force -- for their service.</p> <p>8 Although great strides have been made</p> <p>9 making courts more responsive to the needs of</p> <p>10 children and families, there is much more to be</p> <p>11 done. Today there are more children in foster care</p> <p>12 than ever before. Texas has the second highest</p> <p>13 child population in the United States, and one of 13</p> <p>14 children in the United States lives in Texas. Some</p> <p>15 of the growth is just due to the demographics and</p> <p>16 the growth of Texas and our communities.</p> <p>17 These families present to the court</p> <p>18 with complex issues involving abuse, neglect,</p> <p>19 substance abuse, family violence, and mental health</p> <p>20 issues, and these are the kind of issues that the</p> <p>21 courts must deal with. The courts have a</p> <p>22 responsibility to provide oversight to these</p> <p>23 children and families under both state and federal</p> <p>24 law. Like Justice O'Neill said, no child comes into</p> <p>25 foster care without a court order, and no child</p>
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<p>1 going to try to keep everybody within their time</p> <p>2 frames. If anyone would like to submit written</p> <p>3 comments to the Court, you can do that by providing</p> <p>4 our Clerk of Court, Blake Hawthorne, with those</p> <p>5 comments, and he will make them a part of the record</p> <p>6 of the proceedings today. Thank you, Chief Justice</p> <p>7 Jefferson, and that concludes our remarks.</p> <p>8 CHIEF JUSTICE JEFFERSON: Thank</p> <p>9 you, Justice O'Neill. Then I suppose it's time to</p> <p>10 turn to our first speaker this morning. He has</p> <p>11 already been introduced, and that is a great friend</p> <p>12 of mine, I've known him for years, Judge John Specia</p> <p>13 from Bexar County.</p> <p>14 JUDGE SPECIA: Thank you, Chief.</p> <p>15 I just might have broke this thing. Not a good way</p> <p>16 to start. My name is John Specia. I'm chair of the</p> <p>17 Supreme Court Task Force for Foster Care since 1993.</p> <p>18 This task force was appointed by the Court under the</p> <p>19 leadership of retired Chief Justice Tom Phillips.</p> <p>20 The task force is made up of judges</p> <p>21 and lawyers from across the state and has worked on</p> <p>22 the Court's issues related to abused and neglected</p> <p>23 children for about the last 13 years. I am a</p> <p>24 retired district court judge from San Antonio, and</p> <p>25 this task force is made up of people from all over</p>	<p>1 leaves foster care without a court order.</p> <p>2 And in some cases the courts are the</p> <p>3 most constant influence in that child's life.</p> <p>4 Caseworkers change, but sometimes the court -- and I</p> <p>5 have had kids that I actually have worked with for</p> <p>6 15 or 20 years. I'm the most consistent person they</p> <p>7 see throughout their period of time in the foster</p> <p>8 care system. Without appropriate intervention these</p> <p>9 children graduate to the juvenile system and into</p> <p>10 the adult correction system. These children are</p> <p>11 over represented, when they age out of foster care,</p> <p>12 in the homeless population and in the ranks of the</p> <p>13 mentally ill.</p> <p>14 Judges have historically been at the</p> <p>15 forefront of change to courts related to children.</p> <p>16 The entire juvenile court movement was a response to</p> <p>17 court, traditional court's inability to deal with</p> <p>18 children who had committed crimes. The creation of</p> <p>19 a judicial commission which has been recommended by</p> <p>20 the Consultative Group will create a vehicle to</p> <p>21 focus the energy of the judiciary on these problems.</p> <p>22 It will provide a vehicle for</p> <p>23 leadership, for a statewide approach to these</p> <p>24 problems, and basically work on those problems in</p> <p>25 each of our 254 counties. We will be able to study</p>

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1 and recommend best practices and solutions to assist
 2 the judges in every -- at every level who work with
 3 these children; and we have judges that have very,
 4 very large, exclusive dockets, and we have many,
 5 many judges, general jurisdiction district court
 6 judges, who deal with these problems on an ad hoc
 7 basis in the middle of the rest of their docket.
 8 We will foster collaboration between
 9 the public and private institutions to bring
 10 additional resources to the families. A court in
 11 this particular area has -- is hamstrung and really
 12 can't do much unless you can bring resources to
 13 bear. And so developing those resources, utilizing
 14 those resources, helping provide leadership for
 15 those people is a critical function of the
 16 judiciary.
 17 We will provide appropriate
 18 technology, and one of the problems is, is
 19 that -- and it's a national problem -- we do not
 20 have a good handle on how many children are in the
 21 court system, how many court hearings there are, how
 22 much time the judiciary spends on these cases.
 23 California is working on this problem right now and
 24 has entered into a contract with Deloitte & Touche,
 25 but it is critical that a judge who's handling one

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1 of those cases knows what his docket looks like,
 2 knows how many children are on that docket, or
 3 families, and then knows how that family interacts
 4 with the court system.
 5 In Bexar County we're working on an
 6 information system that would allow me to look at
 7 the child abuse case but then find out if there's a
 8 divorce case pending, if there has been a protective
 9 order issued, if there's criminal charges pending
 10 against the parent or other children in the family,
 11 to get a complete picture of the family. Right now
 12 we're blind. The children and family may be
 13 involved in five different courts, but the courts
 14 are not talking to each other and they don't know
 15 exactly what's going on.
 16 The Consultative Group has
 17 recommended that a Supreme Court Justice chair the
 18 commission to demonstrate the commitment of this
 19 Court. This Court has been committed since 1993 and
 20 has supported the Supreme Court Task Force, but this
 21 commission would provide a different level of
 22 support, and we feel that the chair should be a
 23 Supreme Court Justice.
 24 Today we will hear from people who
 25 work with our children in the courts. We will hear

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1 what is happening across the state and across the
 2 nation. We will hear the good, the bad, and the
 3 ugly of what happens to children in the foster care
 4 system. And one of the things is we will begin a
 5 process to develop a roadmap of how courts interact
 6 with families for the 21st century, and that's what
 7 I hope that a judicial commission can do.
 8 At the conclusion of this hearing I
 9 request this Court sign an order creating a judicial
 10 commission along the line of the recommendations of
 11 the Consultative Group and that we take this step
 12 that has already been taken by other states to put
 13 children at the highest priority in the judiciary.
 14 Thank you all very much. I'm actually going to give
 15 you-all some time back, unless you've got questions.
 16 CHIEF JUSTICE JEFFERSON: Are
 17 there questions?
 18 JUSTICE O'NEILL: Judge, can you
 19 give us an idea, you mentioned children aging out of
 20 foster care. I know we have about 20,000 children
 21 in foster care at any given time in Texas. About
 22 how many children age out of foster care per year?
 23 JUDGE SPECIA: I don't have the
 24 exact answer to that, but it's at least a couple of
 25 thousand. How many? A couple of thousand per year.

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1 I've actually had those foster kids walk up to me on
 2 the streets of San Antonio. One time I was walking
 3 down the street and I saw this group of pretty
 4 undesirable-looking kids, and, you know, you kind
 5 of -- and all of a sudden I hear, "Judge Specia,"
 6 and this young woman walks out of that crowd and
 7 comes over to me. And she was a child in the Casey
 8 Family Program that I had monitored for years and
 9 had aged out.
 10 She actually had problems. I sat
 11 down and I visited with her, encouraged her to
 12 reconnect with Casey; and one of the wonderful
 13 things about the Casey Program is, they don't stop
 14 providing services to children when they turn 18.
 15 They're there whenever. And I gave her five bucks
 16 for cab fare. But, and it changed my view of that
 17 group. I wasn't scared of those group of kids as I
 18 was before.
 19 But those kids are on the streets and
 20 they're in the homeless shelters. It speaks to us
 21 not doing the kind of job that we should do with
 22 these children. More people are retiring today than
 23 ever before. We're relying on this younger
 24 generation to support us in our retirement. I would
 25 much rather have them out being productive citizens

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1 and good voters than supporting them in a
 2 correctional institution. So --
 3 JUSTICE WILLETT: Do we know the
 4 average length of time a child spends in foster
 5 care?
 6 JUDGE SPECIA: Yes, we do, and I
 7 think that under state law we have to achieve
 8 permanency for a child within a year and no later
 9 than 18 months, but that doesn't mean they're out of
 10 foster care. And I've seen those stats, and I'm
 11 sure somebody else has them, but unfortunately, the
 12 average is probably over two years, and there are
 13 many children -- particularly children that go into
 14 foster care later.
 15 Very young children who go into
 16 foster care and can't be returned home who do not
 17 have special needs are adopted very, very quickly,
 18 but older children and children with special needs
 19 sometimes end up aging out into the foster care
 20 system.
 21 CHIEF JUSTICE JEFFERSON: As you
 22 mentioned that, it struck me when we went to
 23 Minnesota the question was asked, "How much time
 24 does a judge spend on average on a case involving
 25 children?" And the answer was, "We don't know."

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1 JUDGE SPECIA: Right.
 2 CHIEF JUSTICE JEFFERSON: And
 3 so that made me wonder, well, why don't we know,
 4 and what could we do? The Office of Court
 5 Administrative is working with funds, with grant
 6 funds to help find that out. But my question to you
 7 is, if we have that knowledge, wouldn't it make our
 8 case better to the Legislature in Texas or to
 9 Congress for additional funding to help us?
 10 JUDGE SPECIA: Absolutely. I
 11 know that in Bexar County we don't spend enough
 12 time, and there are recommendations out of the
 13 National Council of Juvenile and Family Court
 14 Judges, best-practice recommendations about how much
 15 time you should set aside for a review hearing.
 16 Unfortunately, until we get the technology to
 17 capture what judges are doing, what their docket is,
 18 how much time they spend on the initial hearings and
 19 the review hearings, we can't go to the Legislature
 20 and say, We either are inadequately funded or we
 21 have enough judges and we can reorganize things.
 22 And so the time study that the Office
 23 of Court Administration is doing is a step in the
 24 right direction. We received grant money this year
 25 for the first time through Court Improvement Project

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1 to focus on the technology issues, and at our
 2 training program in San Antonio a few weeks ago we
 3 had people from the state courts organization
 4 talking about that project on a national basis.
 5 Thank you, Chief Justice, and thank you Justice
 6 O'Neill.
 7 CHIEF JUSTICE JEFFERSON: Thank
 8 you, Judge.
 9 THE MARSHAL: May it please the
 10 Court, the Honorable Leonard Edwards, Commissioner
 11 and Judge in Residence of the California Center for
 12 Families, Children and the Courts in San Francisco
 13 has requested 15 minutes for testimony.
 14 JUDGE EDWARDS: Good morning.
 15 Thank you for inviting me here. I am honored to be
 16 here before this august body, especially on this
 17 auspicious beginning of an enriched and empowered
 18 commission that is going to be the foundation for
 19 court improvement in child protection cases in
 20 Texas.
 21 I'd like to talk to you about my
 22 experience. I was a superior court judge for 26
 23 years, almost all of it in juvenile court, and
 24 that's a rarity in California because we rotate our
 25 judges; and it's a rarity because the status of

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1 juvenile court is the lowest in California, as it is
 2 in most jurisdictions around the country. Few
 3 attorneys reach the bench after having practiced in
 4 juvenile court.
 5 Most of our judges come from civil
 6 and criminal practice, and so it's understandable
 7 that judges do not like to go to juvenile court,
 8 would prefer to stay with what they've done most of
 9 their lives. And getting dedicated juvenile court
 10 judges is a challenge to the court system,
 11 particularly since this type of law, child abuse and
 12 neglect law, really is in its infancy, having begun
 13 in the early 1980s after the federal legislation was
 14 passed.
 15 So I'm going to ask myself a couple
 16 of questions and answer then. First of all is, why
 17 is court improvement and child protection important?
 18 And it's important because we're not doing a very
 19 good job in it. I'm speaking on behalf of all the
 20 judges around the country and all the court systems
 21 that I'm familiar with; and I've been in most of the
 22 states, and my job now is to go to every county in
 23 California and to look at court improvement and to
 24 see what judges can do and give them suggestions
 25 about what they can do to improve outcomes for

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1 children and families.
 2 We're not going a good job. We're
 3 not following the law. We're supposed to do things
 4 in timely fashion, but we all know the court system
 5 is a slow system where the word "continuance" is one
 6 of our favorite words. And it's easy to get a
 7 continuance, and that does not serve children well,
 8 because children who come before the juvenile court
 9 need to be treated as we would a child or an injured
 10 person in an emergency room. Their sense of time is
 11 different, as the Chief Justice pointed out. They
 12 need to get permanency, they need to get it in a
 13 timely fashion, and it's not forthcoming in our
 14 courts. We move slowly. We get off to a slow
 15 start.
 16 Secondly, we have inadequate
 17 resources, and that may be a reason why these cases
 18 take so long. We have inadequate resources in terms
 19 of the time it takes to complete hearings. In
 20 answer to your inquiry, Chief Justice, we can figure
 21 that out pretty easily. If you see a calendar or a
 22 docket with 30 or 40 families on it, you know that
 23 those families are not getting enough time. You can
 24 look at the gross numbers and see very quickly that
 25 the judge is not taking enough time in these cases.

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1 We also know that the attorneys
 2 aren't adequately trained. We're studying that very
 3 carefully in California right now. The legal
 4 profession isn't producing quality attorneys for
 5 these types of cases for the same reasons that it's
 6 not producing interested judges for these cases. We
 7 have -- we're not using best practices, and this is
 8 understandable because courts don't communicate well
 9 with one another. And one court may develop a very
 10 good practice in this one area, but no one else in
 11 the state may know about it.
 12 And the great lesson that I learned
 13 in joining and becoming a lifetime member of the
 14 National Council of Juvenile and Family Court Judges
 15 is that we learn from other states. We thought we
 16 knew it all in California, and we were dead wrong.
 17 And I have been to many states which say, Well,
 18 we're doing just fine here. And I will tell you
 19 that no state has got it right, and every state
 20 can learn from every other state in some best
 21 practices. So judges in the local jurisdiction
 22 don't know what the best practices are and need to
 23 learn about them.
 24 We also are about to lose money.
 25 Every one of us are, but Texas included, because of

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1 the audits that are taking place of our foster care
 2 system. Now, the audits are of the executive branch
 3 of the Department of Social Services. However, the
 4 courts are integrally involved in some of the
 5 measures that those audits are undertaking.
 6 For instance, timely permanency,
 7 timely reunification services. The agency can do a
 8 great job, but if the court is taking its time, the
 9 state will be fined. If the court's not making the
 10 correct orders, the state will be fined. In 1988
 11 California was fined \$54 million because judges
 12 didn't write the right orders in their minute orders
 13 after these cases were heard.
 14 The audits -- I'm part of the audit
 15 process from HHS. I am involved with them, and I
 16 will tell you that many states are going to be fined
 17 because judges made mistakes in these cases. So
 18 there are a host of reasons why these matters
 19 deserve our attention and why we've got to improve
 20 the way we're doing business.
 21 I'll tell you that in my view, the
 22 trial judge is the critical person in this system
 23 from the court's perspective. It is the trial judge
 24 who sees every child, who makes those critical
 25 decisions about whether the agency acted within the

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1 law when they removed a child. The trial judge is
 2 the person who needs to have the information that
 3 I'm talking about, who needs to have the resources
 4 and the know-how to make the system run better, to
 5 make his or her system locally run better.
 6 The trial judge can't do it alone.
 7 The commission is going to serve the trial judge
 8 very well. Let me give you some examples. First of
 9 all, I think the commission is going to inspire
 10 judges to do a better job. By hearing from the
 11 highest court in the state that this is important
 12 work, judges will take note of child protection
 13 cases as they never have before.
 14 Secondly, the commission can
 15 disseminate. It can collect best practices and
 16 disseminate them, and this is a critical function.
 17 In fact, in California I've -- in my court -- which
 18 was a model court, Justice John Macias's court
 19 was -- I had more than a hundred different court
 20 systems visit my court over the past 10 years. It'd
 21 be a judge, attorneys, social workers, they would
 22 come and just sit in my court for a day and see how
 23 we did business and take the practices that we had
 24 developed and took them home to develop them in
 25 their own jurisdiction. This is a wonderful way to

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1 learn, and it's something that the commission can
 2 help happen in Texas.
 3 I think the -- one of the goals of
 4 the commission will be to form local commissions.
 5 Texas is a big state. You've got a lot of things
 6 going on here, and a lot of people will say, Well,
 7 that commission's up there, but they don't know how
 8 we do things over here. And so this is a goal in
 9 California, and I think it should be a goal in
 10 Texas: Form local commissions.
 11 And finally, I think you ought to
 12 cultivate a culture of problem solving. That is to
 13 say, we ought to take a look at what we have in
 14 front of us and say in each court system, How can we
 15 do this better or that better? Identify a problem,
 16 discuss it, look for best practices and then
 17 implement those best practices.
 18 Let me give you a couple of examples.
 19 You mentioned aging out. It's a very important
 20 issue. We know that our foster children throughout
 21 life, they are more likely to go on welfare when
 22 they age out of the system, to have their children
 23 come before the same system that they were foster
 24 children in, to go to jail, to be homeless. We have
 25 the statistics, we know them well.

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1 So how can the court system provide a
 2 safety net for those kids? Well, we have a number
 3 of ways of approaching this, and I'm not going to go
 4 into them right now, but that's a problem. There
 5 are a number of solutions. We've got to do a lot
 6 better, but we are -- we have technical assistance
 7 for you. In fact, I brought a whole briefcase of
 8 technical assistance to you today, and I know that
 9 you'd love to read some more stuff, so I brought
 10 some articles and I brought some films, from films
 11 of -- that I made, with the help of some people who
 12 know how to work a camera, about best practices.
 13 And let's try this one. We all know
 14 that when you enter the child welfare system it's
 15 very likely there's a substance abuse problem in the
 16 family. That is one of the key indicators that a
 17 family is not doing well with its children. And so
 18 we developed through the years drug treatment
 19 courts, family drug treatment courts. And Judge
 20 Specia came out and visited my court and went back
 21 to San Antonio and started his own. And that's the
 22 way things work, is that judges learn from judges.
 23 I have a wonderful film about that, and I will leave
 24 that with your Clerk here.
 25 We also know that judges, social

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1 workers, and attorneys don't rear children. They
 2 don't do a very good job with that. We kind of
 3 manage systems, but we can't do the day-to-day
 4 things. We need help from the community. There is
 5 no better organized help from the community than
 6 CASA. Texas has a strong CASA program. This new
 7 effort on the part of the commission should
 8 strengthen and take CASA so that every child in
 9 foster care has a CASA volunteer in Texas. Another
 10 crucial role for the commission, and I have a film
 11 on that too.
 12 How about ADR? We know that the
 13 adversarial process damages families. Now, that may
 14 take you back a bit, but this is clear. This is
 15 clear. The adversarial process was meant for
 16 criminal courts and some civil matters. Families
 17 don't do well in the adversarial process, and so we
 18 developed mediation programs for resolving matters
 19 outside of the courtroom. We evolved things like
 20 family group decision making, team decision making,
 21 family team meetings, mediation. These are all
 22 models in which people get together, family members,
 23 extended family members, with social workers, with
 24 attorneys on occasion, and sit down and resolve
 25 matters without going through trial. The families

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1 like it better, the results are longer lasting. We
 2 have good data on this. I brought you an article on
 3 that.
 4 Court structure. We think, well,
 5 we've been doing it this way for so long, but what
 6 about one judge, one family? What about the unified
 7 family court? What about concepts where you rethink
 8 the way that you do business and the way you
 9 structure your court? All of that is something the
 10 commission can take a look at. I have material on
 11 that for you.
 12 Meaningful hearings means taking
 13 enough time. The resource guidelines tell us how
 14 much time that is. That's a lot of time for those
 15 of us who are used to doing five-minute hearings,
 16 but when you start getting better information and
 17 taking longer time, you get better results. That's
 18 a resource issue. The commission needs to identify
 19 that, give good data on that and move that agenda
 20 forward. We need to attract and retain
 21 higher-quality attorneys, social workers, everybody
 22 in the system, and judges.
 23 It all, it's all going to come from
 24 leadership from the commission. The commission's
 25 got to have high visibility, and one of the things

<p style="text-align: right;">Page 30</p> <p>1 that our Blue Ribbon Task Force has done in 2 California is it has hired a media specialist, and 3 we are -- our Blue Ribbon Task Force is in the media 4 regularly. The Justice who is heading our Blue 5 Ribbon Task Force, Justice Moreno, regularly writes 6 letters that appear in editorial columns in the 7 state about the need for judicial involvement and 8 the plight of these children who are drifting in 9 foster care.</p> <p>10 The high visibility helps, because 11 there's no silver bullet for this. You have to come 12 at it legislatively, you come at it through the 13 judiciary, you come at it through the community, 14 through social workers, through attorneys.</p> <p>15 Everybody has to pitch in on this enormous effort to 16 produce better outcomes for our most disadvantaged 17 citizens.</p> <p>18 As you said, Mr. Chief Justice, these 19 children didn't ask to be in foster care. They are 20 here in foster care through no fault of their own, 21 and they've been entrusted to us. And we as judges 22 need to follow at minimum the law. That's what we 23 raised our right hand when we took our oath of 24 office, to follow the law. Well, the law is all 25 about timely, safe, permanency for these children.</p>	<p style="text-align: right;">Page 32</p> <p>1 approach to this, and I was talking to one of your 2 leaders in social services yesterday about how do we 3 educate judges to sign orders in the correct way. 4 It was the judge's fault we lost \$54 million. So 5 there needs to be -- and the commission would 6 identify this in my vision of how you'd move 7 forward, and it would say, How are we going to 8 educate our judges statewide to make orders in an 9 appropriate legal fashion?</p> <p>10 And that can be done. We've been 11 doing it for about 20 years. I made a deal with our 12 state director. I said, "Look at, for a few hundred 13 thousand dollars you can help us hire attorneys to 14 train every judge and clerk in the state," and 15 that's what we've been doing for about 20 years. 16 But there are other ways of doing it, but that's an 17 issue on the table, a problem to be solved.</p> <p>18 JUSTICE O'NEILL: Judge Edwards, 19 is it my understanding that the Blue Ribbon 20 Commission will terminate and is about to expire its 21 charge and then we'll maybe develop a permanent 22 structure to oversee local commissions in 23 California?</p> <p>24 JUDGE EDWARDS: I believe so, 25 and we'll have a report. I think it's in February,</p>
<p style="text-align: right;">Page 31</p> <p>1 And in order to do that we have to 2 change the way we're doing business, and the foster 3 care commission can be the signal carrier, the flag 4 carrier for that need to change in Texas. And I 5 know you can do it, and I volunteer to be of 6 technical assistance in any way I can, because this 7 is my life's work. I'm so pleased to be here in 8 this environment, to sit with the Chief Justice last 9 night to hear him tell me about how he's committed 10 to this. This is inspirational for me.</p> <p>11 So I only have a half-time job in 12 California, and I'm willing to come out here and 13 work with you in any way I can. That concludes my 14 remarks. I'll be glad to answer any questions.</p> <p>15 JUSTICE MEDINA: Judge Edwards, 16 you said that states lose money because of federal 17 audits.</p> <p>18 JUDGE EDWARDS: Yes.</p> <p>19 JUSTICE MEDINA: What's being 20 done to resolve that problem so that states don't 21 lose money in the future?</p> <p>22 JUDGE EDWARDS: Well --</p> <p>23 JUSTICE MEDINA: What can be 24 done?</p> <p>25 JUDGE EDWARDS: -- I have my own</p>	<p style="text-align: right;">Page 33</p> <p>1 Chris will know exactly the dates, because he's 2 directing that operation. The Blue Ribbon 3 Commission for me is an opportunity to do some 4 high-level publicity about these issues. It could 5 go away tomorrow and wouldn't stop me from doing 6 what I'm doing. It's just a very handy opportunity 7 to take off and do some high-level publicity and 8 changes that wouldn't happen without a commission.</p> <p>9 JUSTICE O'NEILL: Have the local 10 commissions been created yet, or was that going to 11 be just a recommendation for creation in the future?</p> <p>12 JUDGE EDWARDS: One of my job 13 descriptions is to try to help form those local 14 commissions, and I have several in the mix. What we 15 do have in most of our juvenile courts in California 16 are monthly meetings -- if it's a rural county, 17 maybe quarterly -- of the juvenile court judge 18 convening the players in the child protection system 19 and bringing up items -- not individual cases, but 20 court operations -- as issues that need to be 21 addressed. This is what I call a court system's 22 meeting. It's extremely effective and I think 23 necessary for local court improvement.</p> <p>24 Because a commission can do a lot, 25 but it can't really change what's happening on the</p>

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1 ground in the local communities; and the local court
 2 systems meeting convened by the local judge -- and
 3 judges are excellent conveners -- they don't
 4 necessarily have to have all the answers, but they
 5 bring people together around the table and say, This
 6 is the way our system is working. Here are some new
 7 ideas. Do you have new ideas? Let's move it
 8 forward.

9 CHIEF JUSTICE JEFFERSON: Okay.
 10 Any further questions? Thank you very much, Judge
 11 Edwards.

12 JUDGE EDWARDS: Thank you. My
 13 pleasure.

14 THE MARSHAL: May it please the
 15 Court, the Honorable Patricia Macias, Judge of the
 16 388th District Court of El Paso and President-elect
 17 of the National Council of Juvenile and Family Court
 18 Judges has requested 15 minutes for testimony.

19 JUDGE MACIAS: Good morning,
 20 Chief Justice Jefferson and Justices of the Supreme
 21 Court. My message this morning in support of the
 22 creation of a Texas Judicial Commission on Children,
 23 Youth and Families is informed within the national
 24 perspective based on the Pew Commission on Children
 25 in Foster Care recommendations and from the National

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1 Council of Juvenile and Family Court Judges, the
 2 largest judicial organization in the country.

3 The national perspective I am sharing
 4 this morning is also shaped from the work you have
 5 heard about from Mr. Len Edwards in California and
 6 others in Oregon, Minnesota, Illinois, Louisiana,
 7 Michigan, Florida, New York, and all points in
 8 between, judges from every state whose role as a
 9 child abuse and neglect judge far exceeds the
 10 traditional function of quiet decision-maker.

11 My remarks are also grounded in
 12 examples from throughout our state. Many of my
 13 Texas colleagues are motivated to do the best
 14 possible job from the bench. Yet their challenge
 15 continues to be a lack of resources, bureaucratic
 16 obstacles, and in some instances burnout from the
 17 secondary trauma experienced as a result of
 18 listening to child abuse cases.

19 Finally, as a district court judge my
 20 message this morning is inspired by the foster
 21 children in my home community of El Paso, by the
 22 foster and adoptive parents, the caseworkers, the
 23 CASA volunteers, the school teachers, the
 24 therapists, drug treatment professionals, law
 25 enforcement, probation officers, and others who

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1 appropriately look to the court for leadership and
 2 accountability.

3 Why are so many children in foster
 4 care for so long? This is the first of four
 5 questions the Pew Charitable Trust asked when it
 6 convened the Pew Commission on Foster Care. Half a
 7 million children in this country are in foster care.
 8 About 50 percent spend over two years in foster care
 9 waiting for a safe and permanent family. Nearly
 10 39,000 infants under the age of one entered foster
 11 care, and they are at risk of receiving the
 12 stability of care essential for building healthy
 13 attachments and early brain development. 19,000
 14 youth aged out of foster care without a permanent
 15 family to support them in their transition to
 16 adulthood, and more likely than not these young
 17 adults will experience homelessness, unemployment,
 18 and drug abuse.

19 The next question the commission was
 20 asked is, Who is responsible? Is it the court that
 21 causes the delays in children achieving a permanent
 22 family? Are the delays a function of overcrowded
 23 dockets? Is it judges who are assigned to
 24 children's court as a steppingstone or, worse, good
 25 judges rotated out of children's court for no

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1 apparent reason?

2 Is it a lack of coordinated data
 3 collection systems, lack of accountability, judges
 4 without a basic knowledge of child development or of
 5 best practices in the courtroom? Is there a lack of
 6 accountability because data systems are nonexistent,
 7 systems that could provide information to assist
 8 judges in making timely decisions about a child's
 9 well-being?

10 And next, what can be done? The
 11 commission was asked to analyze federal foster care
 12 financing policy as well as state child protective
 13 agency funding priorities. The courts were then
 14 examined for their critical role in ensuring
 15 children have permanent families. And the last
 16 question, how to make it happen. This question,
 17 perhaps the most important, focused on how to create
 18 leadership state by state and court by court.

19 Equipped with these questions the
 20 commission's charge was to develop practical and
 21 evidence-based recommendations related to foster
 22 care financing and court oversight of child welfare
 23 to improve outcomes for children. Specifically, the
 24 task was to expedite the movement of children in
 25 foster care to safe and permanent families.

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<p>1 The Pew Commission, using guiding 2 principles, recommended what courts need to help 3 children get safe and permanent homes, and the 4 recommendations were the following: First, courts 5 are responsible for ensuring children's rights to 6 safety, permanence, and well-being are being met in 7 a timely and complete manner; 8 Second, to protect children and 9 promote their well-being, courts and public agencies 10 should be required to demonstrate effective 11 collaboration on behalf of children; third, to 12 safeguard children's best interests in dependency 13 court proceedings, children and their parents must 14 have a direct voice in court, effective 15 representation, and timely input of those who care 16 about them; and fourth, Chief Justices and state 17 court leadership must take the lead acting as the 18 foremost champion for children in their court 19 systems and making sure the recommendations are 20 enacted in their state. 21 Since the launch of the 22 recommendations, foster care reform movements have 23 gained national momentum. Currently 27 states are 24 in process of forming high-level commissions to 25 promote collaboration between courts and the child</p>	<p>1 best practices produce some of the best outcomes for 2 children who are victims of abuse, domestic 3 violence, and custody-related issues. 4 Courts around the country are 5 struggling, some more than our Texas courts. There 6 are courts that fail to allow children to attend 7 their own hearings, there are courts that prohibit 8 foster parents from participating in hearings, and 9 there are courts whose conflict with the child 10 protective agency is so severe that caseworkers 11 ignore court settings; and when they do appear, they 12 are less than forthright with the judge about the 13 last time they visited with the foster child. 14 There are abuse and neglect courts in 15 this country that are treated as sub-courts, 16 ill-equipped without adequate resources, a rotation 17 system of judicial assignment to children's cases, 18 and a lack of communication between systems. The 19 National Council works with such courts providing 20 technical assistance and resources for best 21 practices. 22 The missing element for these 23 struggling courts is leadership at the highest 24 judicial level. The National Council salutes the 25 Texas Supreme Court for its leadership and vision in</p>
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<p>1 welfare agencies, and now Texas is among those 2 states. Federal legislation, based on the Pew 3 recommendations about the need for subsidized 4 guardianship to help children move out of foster 5 care into safe and loving homes of grandparents and 6 other relatives, will be introduced this fall. 7 Organizations all over the country 8 are partnering, networking, and collaborating to 9 implement the policies recommended by the Pew 10 Commission, efforts aimed at expediting the movement 11 of children in foster care to safe and permanent 12 families. 13 I am proud today to represent one of 14 those organizations, the National Council of 15 Juvenile and Family Court Judges. Since its 16 founding in 1937 by a group of judges dedicated to 17 improving the effectiveness of the nation's juvenile 18 courts, the National Council has as its mission to 19 improve courts and systems practice and raise 20 awareness of the critical issues that touch the 21 lives of our nation's most vulnerable children and 22 families. 23 And each day our membership of more 24 than 2,000 judges, along with other child abuse, 25 delinquency, and family law professionals, through</p>	<p>1 forming the Judicial Commission on Children, Youth 2 and Families. It stands ready to assist in 3 providing technical assistance, research, and other 4 resources to achieve the goals as prescribed by the 5 Consultative Group. 6 As a trial court judge for the past 7 13 years I have had the privilege of teaching and 8 learning about innovative programs and best 9 practices with courts around the country and 10 throughout our state. I can attest to the strengths 11 in our Texas courts. The commitment to excellence 12 is unsurpassed and merits replication: Judicial 13 leadership as demonstrated by Judge Ron Pope from 14 Fort Bend County, 323rd District Court, who leads 15 the court teams for Maltreated Infants and Toddlers 16 Project. This multidisciplinary team develops a 17 comprehensive approach to the complex needs of young 18 children zero to three in foster care. 19 Our Texas courts are strengthened by 20 the leadership demonstrated by Judge Robin Sage, 21 307th District Court in Gregg County, whose efforts 22 to increase the number of foster parents resulted in 23 tripling the number of foster parents in Gregg 24 County. The program of fostering partnership is a 25 faith-based and community foster and adoptive</p>

<p style="text-align: right;">Page 42</p> <p>1 recruitment and support strategy. 2 Our Texas courts are strengthened by 3 the leadership of Judge Sergio Gonzalez, County 4 Court at Law in Val Verde County who implemented a 5 video conferencing system which enables foster 6 children living outside Del Rio to participate in 7 their permanency hearings via teleconference 8 technology. 9 And Texas courts are strengthened by 10 the work of Judge Camile DuBose, Child Protection 11 Court of South Texas, a pioneer judge in the cluster 12 court system who logs thousands of miles traveling 13 from county to county dispensing justice and 14 ensuring children's cases are given the priority 15 they deserve. 16 While these are examples of 17 leadership, innovation, and best practice, every 18 court that hears children's cases within each of our 19 254 counties should be examples of leadership. The 20 Judicial Commission on Children, Youth and Families 21 can address those gaps in leadership and provide the 22 policy framework for courts throughout this state to 23 achieve the goal of ensuring each foster child has a 24 safe and permanent home. 25 This Honorable Court through this</p>	<p style="text-align: right;">Page 44</p> <p>1 work together, for working harder, more 2 productively, and with greater accountability; and 3 most of all, thank you for being the champions of 4 our children. 5 CHIEF JUSTICE JEFFERSON: Thank 6 you, Judge Macias, and the Court appreciates your 7 leadership itself. I can't stress how important it 8 is to have someone of your stature, a national 9 leader, participate in these efforts, and we'll take 10 a lot of instruction from you; because you'll be 11 seeing what's going on around the country, and I'm 12 sure that you'll give us some advice along the way. 13 Are there any questions for Judge Macias? 14 JUSTICE MEDINA: I have one, 15 Judge Macias. Thank you for being here. It was 16 very well said. You made a comment about the child 17 protective agency and judges having conflicts in 18 that CPA officers missed their settings. What's 19 that conflict about, and how can that be fixed? 20 JUDGE MACIAS: Across the 21 country I've observed a natural tension between the 22 courts and the child protective agency because 23 courts have the responsibility, the supervisory 24 responsibility to oversee every aspect of the 25 child's case, and when there are two branches of</p>
<p style="text-align: right;">Page 43</p> <p>1 proceeding today has accepted the Pew 2 recommendations that chief justices and state court 3 leadership must take the lead as the foremost 4 champion for children in their court systems and 5 making sure their recommendations are enacted in our 6 state. Ensuring the well-being of our children 7 takes courage, hard work, and a commitment to 8 judicial excellence. 9 Chief Justice Jefferson, you have 10 demonstrated that courage by placing the commission 11 for children and families as a priority. Justice 12 O'Neill, your energy and leadership will take this 13 commission and will surpass even California's 14 expectations. And Judge Specia, the foster children 15 whose lives you have enriched through your work 16 continue to be your legacy. 17 And finally, in honor of the late 18 Judge Jim Farris from Beaumont, who mentored many of 19 us to be the type of judges whose vocation is child 20 advocacy, to each of you on behalf of the foster 21 children in this state, on behalf of the judges who 22 hear their cases, on behalf of caseworkers, foster 23 parents, adoptive parents, CASA volunteers, 24 attorneys, and all others who comprise the judicial 25 system, muchisimas gracias for challenging us to</p>	<p style="text-align: right;">Page 45</p> <p>1 government who are responsible for the same child, 2 perhaps there's a tension. But the courts have the 3 responsibility of oversight. 4 JUSTICE MEDINA: Is that a 5 problem in Texas as well? 6 JUDGE MACIAS: I think there may 7 be some pockets where there are challenges where the 8 communication may be lacking, and that's one of the 9 gaps that must be filled throughout Texas, to make 10 sure that there's a partnership and a collaboration; 11 because we're all reaching the same goal, and that's 12 providing a home for a child. 13 JUSTICE MEDINA: Thank you, 14 Judge. 15 CHIEF JUSTICE JEFFERSON: Judge, 16 can you speak a little bit more, and I'm sure we'll 17 hear more testimony, about the coordinated data 18 systems? What does that entail? Judge Specia 19 mentioned that when a court opens the docket it sees 20 not only the proceedings before it, but the criminal 21 proceedings in another venue and other things going 22 on. What -- if you can elaborate on that, and how 23 do we get there? 24 JUDGE MACIAS: Because judges 25 are obligated to follow both Texas law and federal</p>

<p style="text-align: right;">Page 46</p> <p>1 law regarding the time frame within which a child 2 needs to achieve permanency, it's important for a 3 court to know how long the child has been in the 4 system, how many changes of homes there have been 5 which provide the lack of continuity. It's 6 important to know how the parent is doing on the 7 service plan to ensure that there is substantial and 8 complete compliance so the child can be returned 9 home.</p> <p>10 And so all these data pieces of 11 information are important for a court to know in 12 order to supervise the case. We now receive federal 13 funding to enhance data systems so that we can look 14 at both Child Protective Services data and court 15 data and blend the two and ensure that there's 16 permanency for a child in 12 months or at the high 17 end in 18 months. But we want to make sure that our 18 children return home or are adopted or placed with 19 family way before that time.</p> <p>20 CHIEF JUSTICE JEFFERSON: Thank 21 you. Any further questions? Thank you very much.</p> <p>22 JUDGE MACIAS: Thank you. And 23 if I can be excused, I have an afternoon docket in 24 El Paso.</p> <p>25 CHIEF JUSTICE JEFFERSON: Thank</p>	<p style="text-align: right;">Page 48</p> <p>1 court issue, comment on why we believe a commission 2 is a catalyst for reform in this area, and share a 3 few examples of the difference I think our 4 commission is already making in California, which 5 may be helpful to you as you consider your own 6 foster care commission in Texas.</p> <p>7 It's been emphasized before, but 8 while children are in foster care they're our 9 children. We share this responsibility in the 10 courts with child welfare and other relevant 11 agencies, but the buck stops with the courts. As 12 Justice O'Neill emphasized, judges are charged with 13 making some of the most intimate decisions any 14 person can make about another, whether children will 15 be removed from their homes, where they'll live. 16 And if our courts don't do a good job, children and 17 families suffer.</p> <p>18 Part of the original impetus for our 19 Blue Ribbon Commission in California was the 20 national Pew Commission on Children in Foster Care. 21 It was a bipartisan national panel that examined the 22 role of the courts, as Judge Macias mentioned, and 23 they outlined several important areas for change.</p> <p>24 Bill Vickery, who is our 25 administrative director of the courts,</p>
<p style="text-align: right;">Page 47</p> <p>1 you.</p> <p>2 THE MARSHAL: May it please the 3 Court, Mr. Christopher Wu, Executive Director and 4 supervising attorney of the California Center for 5 Families, Children, and the Courts in San Francisco 6 has requested 10 minutes for testimony.</p> <p>7 MR. WU: Good morning.</p> <p>8 CHIEF JUSTICE JEFFERSON: Good 9 morning.</p> <p>10 MR. WU: Mr. Chief Justice, 11 Associates Justices, I'm happy to be here this 12 morning to add to Judge Edwards' enthusiasm about 13 California's Blue Ribbon Commission and comment on 14 the opportunity ahead of you in Texas to undertake 15 similar efforts.</p> <p>16 The California Blue Ribbon Commission 17 has been charged by our judicial council and 18 Chief Justice Ron George with developing 19 politically-viable recommendations on how the courts 20 working with our partners can improve outcomes for 21 children and families in our foster care system. 22 I've been asked today to share a few thoughts about 23 our experience in California.</p> <p>24 I'd like to echo a few words that 25 have already been said about why foster care is a</p>	<p style="text-align: right;">Page 49</p> <p>1 Carl Leonard's counterpart in California, was a 2 member of this commission along with Judge Macias 3 and brought this vision of joint court and child 4 welfare reform back to California. We have clear 5 and visible problems in California to solve. As you 6 may know, we have the largest foster care population 7 in the nation.</p> <p>8 And to highlight just a couple of our 9 challenges, I would echo Judge Edwards' remarks on 10 caseloads. Dependency court judges in California 11 have an average of a thousand cases, active cases at 12 a time. Attorney caseloads for parents and children 13 average 270, and in some of the largest counties 14 that number can rise to 500 or 600. It's important 15 to remember, I think, that these cases are not like 16 general civil and criminal cases in which the 17 court's responsibility ends at disposition. That is 18 merely the beginning of many of these cases which 19 must be reviewed at least twice a year while 20 children are in care.</p> <p>21 So obviously, these tight caseloads 22 mean that children and families don't always receive 23 the effective representation that they need. Judges 24 and attorneys don't always have sufficient time to 25 listen to a child's hopes and dreams or a parent's</p>

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<p>1 concerns.</p> <p>2 Secondly, child well being is a</p> <p>3 collaborative responsibility, but as I'm sure you</p> <p>4 know, large government bureaucracies outside of</p> <p>5 Texas don't always play well with others. A</p> <p>6 high-level commission gives us the ability to</p> <p>7 explore the complexities of these various systems</p> <p>8 that work with children in foster care and how we</p> <p>9 can work better together. A direct result of our</p> <p>10 commission is that we're forging a statewide</p> <p>11 consensus on how to improve child welfare outcomes,</p> <p>12 and we're exploring ways to replicate that consensus</p> <p>13 in all 58 of our counties. I know you're thinking,</p> <p>14 Just 58? That's what we have in California.</p> <p>15 Our Blue Ribbon Commission members</p> <p>16 are representative of all the agencies and systems</p> <p>17 involved with children and families, so our</p> <p>18 discussions about collaboration have a grounding in</p> <p>19 reality. The commission is made up of leaders who</p> <p>20 know how to get things done, judges and attorneys,</p> <p>21 we have legislators, state and county government</p> <p>22 officials, advocates, community leaders, academics,</p> <p>23 we have people from the world of philanthropy, and</p> <p>24 tribal leaders.</p> <p>25 As has been -- as Judge Edwards</p>	<p>1 committees that are hard at work on recommendations.</p> <p>2 And along the way we've already made some progress</p> <p>3 to tell you about, two key areas. One is</p> <p>4 collaboration between the courts and child welfare</p> <p>5 on the data system that has been mentioned. We're</p> <p>6 developing our first statewide court data and case</p> <p>7 management system in California. This is, not</p> <p>8 surprisingly, a very involved and complex process</p> <p>9 and one that would have happened more in a vacuum if</p> <p>10 not for the commission. We've been able to work</p> <p>11 with our child welfare partners to design vital</p> <p>12 information exchanges between our systems when</p> <p>13 they're completely developed.</p> <p>14 A second example, which is related to</p> <p>15 the first and which the data system will allow us to</p> <p>16 develop, is a set of court indicators of performance</p> <p>17 and accountability. These indicators notably are</p> <p>18 aligned with the child welfare outcomes of safety,</p> <p>19 permanency, and well being which, as Judge Edwards</p> <p>20 mentioned, the federal government uses to track</p> <p>21 performance and, when necessary, determine state</p> <p>22 sanctions.</p> <p>23 Our court indicators have benefited</p> <p>24 from commission input and consensus among that wide</p> <p>25 array of stakeholders I mentioned earlier. Without</p>
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<p>1 mentioned, our chair is Supreme Court Justice</p> <p>2 Carlos Moreno, who is also a foster parent himself</p> <p>3 and brings personal experience and passion to this</p> <p>4 work. As he often says, if he finds these systems</p> <p>5 intimidating, what chance do most parents and</p> <p>6 caregivers have?</p> <p>7 In fact, Justice Moreno would have</p> <p>8 been here today if not for a conflict with his</p> <p>9 Supreme Court duties in California. He did send a</p> <p>10 letter of support for your efforts in Texas, and I</p> <p>11 believe it will be waiting for you when you return</p> <p>12 to your chambers this afternoon.</p> <p>13 And finally, the timing is right.</p> <p>14 As has been mentioned by Judge Macias and</p> <p>15 Judge Edwards, California's Blue Ribbon Commission</p> <p>16 is building on national and statewide momentum for</p> <p>17 better outcomes in child welfare. We have a</p> <p>18 legislative Task Force on Foster Care. State and</p> <p>19 county child welfare agencies are stepping up to the</p> <p>20 plate, and because of the key role that the courts</p> <p>21 play in the foster care system we have to join in</p> <p>22 these efforts.</p> <p>23 We've had seven full commission</p> <p>24 meetings around the state in California, numerous</p> <p>25 hearings, public and conference calls, we have</p>	<p>1 the commission these indicators, if they were</p> <p>2 developed at all, would have been done so in</p> <p>3 isolation and we would have missed a critical</p> <p>4 opportunity to use data and performance indicators</p> <p>5 to enable collaboration and information sharing</p> <p>6 between the courts and child welfare.</p> <p>7 Also, I want to highlight the</p> <p>8 progress we've made in building community support</p> <p>9 and conducting public education and outreach. We</p> <p>10 have open meetings. There's outreach to the media.</p> <p>11 We're working to build that community support that</p> <p>12 will be needed to implement our recommendations. As</p> <p>13 commission members listen and learn and take</p> <p>14 information home, they're already expanding ideas</p> <p>15 and innovations to the county courts and relevant</p> <p>16 agencies.</p> <p>17 As Judge Edwards noted, we also have</p> <p>18 in place an ongoing public education effort that</p> <p>19 includes outreach to local stakeholders whenever we</p> <p>20 meet, and we've had many commission members</p> <p>21 conducting media interviews, op ed articles. One of</p> <p>22 our commissioners, a foster youth on the commission,</p> <p>23 was profiled in August on "This American Life" for</p> <p>24 Public Radio.</p> <p>25 We have a long ways to go before</p>

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1 we're done. Certainly as you consider your
 2 commission here in Texas, I would encourage you to
 3 emphasize the need for public education and
 4 awareness as well as utilizing strategic planning to
 5 accomplish your outcomes.
 6 We have a county-administered child
 7 welfare system, but in any state we have to have
 8 success on the front lines where families and
 9 children appear in courts. As Judge Edwards noted,
 10 our commission is charged with building a network of
 11 interdisciplinary commissions at the county level
 12 and to promote continued collaboration and take our
 13 proposals forward.
 14 Blue Ribbon Commissions come and go.
 15 Sometimes they make a lasting effort. Too often
 16 they issue long reports that sit on the shelf.
 17 We're fortunate in California that the judicial
 18 council has given us the resources and staff to do
 19 the job. We're determined that this commission will
 20 make a difference in the lives of our most
 21 vulnerable children and families.
 22 Finally, I'm most impressed by what
 23 I've seen so far in Texas. There's much potential
 24 for great success in the future with the foundation
 25 of the great leadership from this court, Justice

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1 O'Neill, Chief Justice Jefferson, judges like
 2 John Specia and Judge Macias and other people who
 3 will be speaking shortly, the work of the foster
 4 care task force, and great staff support from people
 5 like Tina Amberboy and Christi Taylor, and
 6 relationships with key partners like Joyce James.
 7 And now is the time to institutionalize that
 8 progress to the creation of a permanent judicial
 9 commission. Thank you.
 10 CHIEF JUSTICE JEFFERSON: Thank
 11 you, Mr. Wu. Are there any questions?
 12 JUSTICE O'NEILL: I want to say
 13 that our team was very impressed with what's
 14 happened in California. It was sort of overwhelming
 15 the resources that have been put into this in
 16 California, and I hope we can have a partnership in
 17 the future that we're looking forward to.
 18 MR. WU: We look forward to
 19 working with you in the years to come.
 20 CHIEF JUSTICE JEFFERSON: Chief
 21 Justice George charged you with making
 22 politically-viable recommendations, and that sounded
 23 sort of an alarm with me. How -- you know, many
 24 people are resistant to change. They form habits
 25 over years, and how have you begun to overcome that

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1 incalcitrance in California? What are the tools to
 2 do that?
 3 MR. WU: Well, certainly
 4 developing the local commissions is, I think, a
 5 major tool. Hiring Judge Edwards to help accomplish
 6 that task is certainly one of those; and as I
 7 mentioned, I think that, as I mentioned, the timing
 8 in California is right in the sense that we have a
 9 real confluence of interest and energy from the
 10 Legislature on foster care issues, from the
 11 executive branches of government.
 12 And I know Judge Edwards' experience
 13 is long enough that he will remember when the
 14 branches of government on these issues were not
 15 talking with each other at all, and it was actually
 16 more than almost 20 years ago now that he helped us
 17 get together our first statewide conference called
 18 Beyond the Bench where we had a child welfare and
 19 the court sitting down at the same table trying to
 20 iron out problems.
 21 And it was very much at the beginning
 22 sort of what I call the seventh grade dance, with
 23 the boys on one side and the girls on the other and
 24 not mixing; but it's been a very long haul for that,
 25 but that's the kind of synergy that I think we can

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1 develop and you can develop here in Texas.
 2 CHIEF JUSTICE JEFFERSON: Thank
 3 you very much, Mr. Wu.
 4 MR. WU: Thank you.
 5 THE MARSHAL: May it please the
 6 Court, Ms. Joyce James, Assistant Commissioner of
 7 Child Protective Services, Texas Department of
 8 Family and Protective Services in Austin has
 9 requested 10 minutes for testimony.
 10 MS. JAMES: Good morning. My
 11 name is Joyce James. I am the Assistant
 12 Commissioner for the Texas Child Protective Services
 13 program with the Department of Family and Protective
 14 Services. I am honored to have the opportunity to
 15 testify today on behalf of creating a Texas Judicial
 16 Commission on Children, Youth and Families.
 17 I have worked in the Child Protective
 18 Services program for the past 28 years, starting my
 19 career as a front-line caseworker in the field. I
 20 have experienced the system at every level, but my
 21 greatest career challenge came when on April 1st,
 22 2004 I was selected to provide the leadership for
 23 the Texas Child Protective Services program.
 24 I have always had a passion for
 25 working with children and families, but over the

<p style="text-align: right;">Page 58</p> <p>1 last three years I have felt an increasingly 2 personal responsibility for the children and 3 families served in the child welfare system. Each 4 day I am keenly aware of the fact that the child 5 welfare system and family courts across Texas are 6 charged with meeting the needs of approximately 7 30,000 children that we have legal custody of and 8 approximately 20,000 children who depend on us for 9 safety, permanency, and well being in a timely 10 manner.</p> <p>11 I am also more and more aware that 12 this mission is becoming challenging and that the 13 outcomes for these children and their families are 14 often determined by our response as a system. The 15 question that I am committed to asking myself on a 16 daily basis and the question that we must ask 17 ourselves as a system is whether our response is in 18 line with what we would want for our own children 19 and families.</p> <p>20 My personal response is that our 21 child welfare system is getting better, but for the 22 children for whom we really are the parents, they 23 deserve a system that is much more responsive in the 24 following areas and more. We must invest in 25 resources in the front end of our system to serve</p>	<p style="text-align: right;">Page 60</p> <p>1 children.</p> <p>2 Family courts and child welfare 3 agencies must begin to recognize the need for change 4 based on the ever-changing needs of families who are 5 plagued by issues of poverty, substance abuse, 6 domestic violence, and mental health problems. We 7 cannot continue to operate as if these issues do not 8 exist and continue to maintain systems that do not 9 adequately respond, resulting in more children 10 entering and staying in the foster care system. We 11 must improve our system's ability to track the 12 progress of children and use data to hold all parts 13 of the system accountable.</p> <p>14 I believe creating a Judicial 15 Commission on Children, Youth and Families can alter 16 the lives of children and families served by the 17 courts and child welfare and provide a unique 18 opportunity for Texas to respond to the above 19 challenges by changing the way business is done so 20 that children spend less time in foster care and so 21 that they experience improved outcomes.</p> <p>22 My personal belief is that children 23 and families should be better off as a result of our 24 intervention in their lives. Too often this is not 25 the case in our current system. A judicial</p>
<p style="text-align: right;">Page 59</p> <p>1 families so that their children can be maintained 2 safely in their homes, including family group 3 decision making, family team meetings, and 4 mediation. We must engage families early in the 5 process to decrease the amount of time to 6 reunification when their children must be removed.</p> <p>7 We must increase our support for 8 relative placements when children cannot remain 9 safely in their own homes. In Texas we have a 10 little over 8,000 children living in kinship care 11 placements. We must reduce the amount of time that 12 children wait for permanent adoptive homes, and we 13 must reduce the number of children who age out of 14 the foster care system with no permanent supportive 15 connections and who often repeat the cycle of abuse 16 as they become adults and have their own children.</p> <p>17 We must develop a culturally- 18 competent child welfare system, committed to 19 addressing issues of disproportionality related to 20 African American children and families. We must be 21 concerned about data that reflects a Texas African 22 American child population of 13 percent, yet 26 23 percent of the children removed are African American 24 children and 33 percent of all children waiting for 25 permanent adoptive homes are African American</p>	<p style="text-align: right;">Page 61</p> <p>1 commission can provide the leadership for 2 development and expansion of innovative programs and 3 training for judges and systems working together to 4 alleviate the trauma associated with the plight of 5 abused children.</p> <p>6 A judicial commission can provide a 7 vehicle for expanding relationships, to develop a 8 network of public and private partnerships, to 9 create new ways of working with resource-challenged 10 systems, to bring about best practices in addressing 11 issues of abuse and neglect. A judicial commission 12 can provide our children with the greatest chance 13 possible for safe, healthy, and permanent families.</p> <p>14 Collaboration and strong leadership 15 is essential in creating the commission on children. 16 The courts and child welfare agencies must share 17 equal commitments of trust, time, and resources 18 and must be willing to work toward common, 19 mutually-beneficial goals that support improved 20 outcomes for all children.</p> <p>21 My passion for this work is fueled by 22 the possibility of a commission led by a judge who 23 has the ability to provide the leadership for 24 comprehensive change in the Texas child welfare 25 system. Judges hold a position that invites</p>

<p style="text-align: right;">Page 62</p> <p>1 community leadership and are seen as individuals of 2 authority and fairness. Judges who also have a 3 passion for working with children and families also 4 have the ability to inspire and empower others to 5 act. People do not change unless their leaders 6 change and model that they are serious about the 7 change and hold each other accountable in the 8 direction-setting process so that the best thinking 9 of all concerned is brought to the table.</p> <p>10 A Judicial Commission on Children, 11 Youth and Families will provide for better 12 collaboration among all stakeholders, and each 13 member will be charged to inspire change within 14 their own agencies and organizations. The children 15 in the legal custody of the state of Texas deserve 16 to have a child welfare system in place to meet 17 their individual needs in the same manner that we 18 would expect for our own children.</p> <p>19 It is on behalf of these children and 20 future ones to come that I speak today in support of 21 the development of a permanent Judicial Commission 22 on Children, Families, and Youth. There is no doubt 23 in my mind that the beneficiaries of a commission 24 and the changes that will occur will be the children 25 and families served by the Texas child welfare</p>	<p style="text-align: right;">Page 64</p> <p>1 2002 that resulted in a finding that we had some 2 room for improvement in engaging families around 3 creating service plans designed to meet their needs 4 and the needs of their children for permanency.</p> <p>5 Shortly thereafter we began to really 6 look at how we could move to a more family-focused 7 approach to working with families, and we began by 8 learning from other states who had already been 9 using the family group decision making, and in 10 December of 2004 we actually rolled out this 11 initiative in Texas.</p> <p>12 And what it does is create an avenue 13 for families to be at the table. It gives them 14 decision-making authority regarding how to keep 15 their children safe. It involves a facilitated 16 conference where families are able to decide who 17 their supports are that they would like to bring to 18 the table. It could be relatives, grandparents. It 19 may be friends that they have a significant 20 relationship with, people in the community. 21 Sometimes the clergy are brought to the table.</p> <p>22 The family is allowed some alone time 23 after we have had time to discuss what the issue is, 24 to make it understood by all that the discussion is 25 about the child and the hopes and dreams that we all</p>
<p style="text-align: right;">Page 63</p> <p>1 system.</p> <p>2 I want to conclude by conveying my 3 commitment to work with members of the commission 4 should the Court decide to create it and also share 5 that my commissioner, Kerry Cockrell, who is the 6 Commissioner of the Department of Family and 7 Protective Services, supports the development of a 8 judicial commission and is committed to our 9 department doing its part to create a better child 10 welfare system for the children of Texas. Thank 11 you.</p> <p>12 CHIEF JUSTICE JEFFERSON: Thank 13 you. Are there questions?</p> <p>14 JUSTICE O'NEILL: Well, I would 15 like to just say, Joyce has been a member of the 16 Consultative Group, she's been at the table in every 17 meeting that we've had. She'd been very -- she's 18 demonstrated the commitment she's expressed today. 19 I would love, if you would, to please tell us a 20 little bit about family group decision making and 21 how the department is using that in processing 22 children through the system.</p> <p>23 MS. JAMES: Well, it actually 24 goes back to the Child and Family Service federal 25 review that Texas went through for the first time in</p>	<p style="text-align: right;">Page 65</p> <p>1 have for that particular child and how we can all 2 work together to keep the child safe. We have seen 3 that become just a wonderful, wonderful model for 4 families and for children in Texas in that families 5 are creating plans, that they're coming out and 6 sharing those plans with the caseworkers. And in 7 the majority of those cases we are accepting the 8 plans that families make for ensuring safety of 9 their children.</p> <p>10 We recently did an evaluation, a 11 formal evaluation of the family group 12 decision-making process in Texas, and the evaluation 13 shows that when a conference occurs children spend 14 less time in foster care. They are also more likely 15 to be placed with a relative if they cannot return 16 to their own family, and it has served to really 17 address some of the issues associated with 18 disproportionality.</p> <p>19 It has better outcomes for children 20 of every race, but in particular for African 21 American and Hispanic children there has been a 22 significant increase in the number of those youth 23 who go home or go to a relative after a conference. 24 We are moving that to the front end of our system. 25 We had a stakeholder meeting</p>

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1 yesterday where we'll be using another method of
 2 family group decision making called family team
 3 meetings where at the time when it appears that a
 4 child cannot maintain -- be maintained safely in
 5 their own home, we will offer the family the
 6 opportunity to do a family team meeting where they
 7 bring in family, and we develop a safety plan that
 8 may result in the child not having to be placed in
 9 foster care.

10 JUSTICE WILLETT: Do -- I'm
 11 sorry, Justice O'Neill. Go ahead.

12 JUSTICE O'NEILL: I was just
 13 going to say, do you find that those cases that have
 14 been through family group decision making end up
 15 requiring less court involvement, less hearings,
 16 less time consumption in the court system?

17 MS. JAMES: Absolutely. We have
 18 found that in some cases when we're able to do the
 19 conference early enough, the case may not end up
 20 going to court at all. In some instances, however,
 21 we do maintain legal custody of the child, and the
 22 child may remain in their own home or they may be
 23 placed in a relative placement, and we continue to
 24 have hearings before the court on those cases.

25 JUSTICE WILLETT: You mentioned

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1 briefly the racial makeup of children awaiting
 2 adoption. How does that compare with the racial
 3 makeup of families wishing to adopt?

4 MS. JAMES: We have a lot of
 5 work to do in our recruitment efforts to ensure that
 6 we are recruiting families so that we can make good
 7 matches. We're not looking for one to one, because
 8 that doesn't give us the greatest options for
 9 children. And I must stress that although the
 10 majority of our -- there's a high percentage of
 11 African American children waiting in the system, we
 12 are charged with recruiting families that match the
 13 ethnicity of waiting children; but we're also
 14 charged with recruiting families of every ethnicity,
 15 because we do not use race in selecting families for
 16 those children.

17 JUSTICE WAINWRIGHT: Ms. James,
 18 I appreciate your comments and thank you for being
 19 here this morning. I'm going to surmise that in
 20 your three decades of working in this area, starting
 21 with being a caseworker, that you've been in Texas
 22 courts cross the state involved with child custody
 23 and foster care matters. Inside the courtroom what
 24 are a couple of things that this commission, if
 25 created, could do to make things better quickly?

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1 MS. JAMES: Well, certainly the
 2 court dockets are crowded. More time for judges to
 3 really be attentive, to hearing from the youth, to
 4 hearing from the families, to hearing from the
 5 caregivers of these children, making sure that we're
 6 family friendly and that we're looking for ways to
 7 engage families in the process early are just a
 8 couple of things that come to mind.

9 Looking for opportunities to have our
 10 courts have technology that allows for maybe youths
 11 to be able to be video-conferenced in, because for a
 12 long time now we've heard, especially from youths
 13 who have aged out of the system, that they want to
 14 be a part of the decision-making process. They've
 15 coined the phrase "nothing about us without us,"
 16 which we really value and respect, because they have
 17 a right to have their voices heard and to be a part
 18 of what decisions that are being made about them in
 19 the court system.

20 CHIEF JUSTICE JEFFERSON: How
 21 about the facilities themselves? There are some
 22 courts that have special rooms set aside for
 23 families that are kid-friendly. Have you seen that
 24 growing across the state, or is that -- and is that
 25 good for --

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1 MS. JAMES: It is, I believe,
 2 yes, that it is good for children. I have not seen
 3 it nearly enough in the state of Texas. There have
 4 been few courts that have been able to manage to
 5 create child-friendly courts where they have special
 6 rooms and places for children who are brought to
 7 court that are child-friendly. We have a long way
 8 to go in really creating this type of court
 9 environment, but I do believe that the leadership of
 10 a commission will help us to really look at those
 11 types of practice models and share that with courts
 12 across the state of Texas and share the impact and
 13 outcome that these types of courts are really having
 14 on the results and improved outcomes through the
 15 courts for our families and for our children.

16 CHIEF JUSTICE JEFFERSON: Thank
 17 you very much, Ms. James, for your testimony today
 18 and for your service to our state.

19 MS. JAMES: Thank you.

20 THE MARSHAL: May it please the
 21 Court, the Honorable F. Scott McCown, retired
 22 district judge and Executive Director of the Center
 23 for Public Policy Priorities in Austin has requested
 24 10 minutes for testimony.

25 CHIEF JUSTICE JEFFERSON: Judge

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1 McCown, before you begin, we will after your
 2 testimony is concluded take a brief 15-minute break.
 3 I just wanted people to be aware of that, and thank
 4 you for coming.
 5 JUDGE McCOWN: Thank you and
 6 good morning. I very much appreciate being here. I
 7 am Scott McCown, and I'm a retired state district
 8 judge from here in Austin and the director at the
 9 Center for Public Policy Priorities, which is a
 10 state research group and the home of the Texas Kids
 11 Camp Project.
 12 As a district judge I heard about
 13 2,000 child abuse cases involving about 4,000
 14 children and had the privilege of serving by
 15 appointment of this Court on the Supreme Court Task
 16 Force for Foster Care. But before all of that I had
 17 a background like many of you. I went to UT law
 18 school and I studied private law and I went out to
 19 practice with Vinson & Elkins and later in the
 20 Attorney General's office and did a lot of fancy
 21 civil litigation before going on the bench. And I
 22 just want to share with you briefly the story of my
 23 first CPS case, because I think it's important for
 24 what I want to say to you today.
 25 In my first year on the bench I heard

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1 my first CPS case, involved a two-year-old who the
 2 department reported had been pretty badly physically
 3 abused. After hearing the evidence I came to the
 4 conclusion that it was the mother's boyfriend, and
 5 she agreed to run him off and I placed the child
 6 back with her. And a few weeks later the department
 7 was back in court because the child had been abused
 8 again. And the evidence was very cloudy as to
 9 whether it was the mother who was the perpetrator or
 10 whether the boyfriend wasn't around.
 11 But the father was in court with his
 12 wife, his second wife, and she was expecting a
 13 child. And the department and the district attorney
 14 were very much opposed to the child being placed
 15 with them without adequate investigation, without
 16 knowing a whole lot more than I thought we needed to
 17 know; and I placed the child with the father and the
 18 expectant stepmother and two weeks later was met at
 19 the door of my chambers one morning to be told by
 20 the social worker that the stepmother had killed the
 21 child.
 22 And I realized then that nothing
 23 about my education or background prepared me for
 24 these cases and I needed to know a whole lot more
 25 about what I was doing. Even today our judges are

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1 not adequately prepared, and I think you've heard
 2 some of the complexity of these cases explained, and
 3 we do not have adequate judicial resources given to
 4 these cases.
 5 Our civil judges will go home early
 6 when our family court judges have long dockets, and
 7 I had a docket of civil and family cases and would
 8 be spending hours in a discovery dispute or
 9 reviewing documents in camera where I had 15 minutes
 10 on a good day to review a CPS case that was coming
 11 back before me. And we have a serious misallocation
 12 of resources and a lack of training and a lack of
 13 commitment.
 14 And I really applaud the Court today
 15 for considering a judicial commission to strengthen
 16 our system, but I'm going to imagine three unspoken
 17 concerns that people might have and set them up and
 18 knock them down. But if I don't put them out there,
 19 they may stay unspoken.
 20 Now, the first legitimate concern is
 21 about the whole concept of judicial leadership. Is
 22 it appropriate for a judge to exercise judicial
 23 leadership in the way that this commission would be
 24 doing? And yes, under the Code of Judicial Conduct
 25 judges not only can, but are charged to work to

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1 improve the administration of justice; and a
 2 judicial commission can actually enhance exercising
 3 judicial leadership in an appropriate way consistent
 4 with the code by bringing some really high-level
 5 organization and scrutiny to that effort. In our
 6 paper in my written testimony I've cited work that
 7 we've done on that if you're interested in it
 8 further.
 9 But the second concern that someone
 10 might have is, well, judicial leadership is fine,
 11 but are we really being asked to engage in social
 12 work? Now, this is really not what courts do.
 13 Well, I think that betrays a misunderstanding about
 14 the responsibilities of today's judges. For
 15 example, judges work regularly to improve our
 16 criminal justice system. In fact, judges administer
 17 our local adult probation systems and administer our
 18 local juvenile probation systems requiring them to
 19 become deeply engaged in the budget, in the
 20 management, and the collaboration required to run
 21 these systems.
 22 And this sort of engagement is really
 23 required to fulfill the judicial responsibility we
 24 have as judges to ensure the effective
 25 administration of justice. And we should be no less

<p style="text-align: right;">Page 74</p> <p>1 deeply engaged in our dependency docket than we are 2 in our delinquency dockets. And in fact, we need to 3 be engaged if we're going to make our orders 4 effective. 5 Now, finally, some might be concerned 6 about the creation of new infrastructure. Do we 7 need another commission? Do we need a Commission on 8 Children, Youth and Families? And I want to put 9 this concern in context, and in our written 10 testimony there's a bunch of pretty graphs and 11 charts with all the numbers, but the Texas courts 12 are responsible for ensuring the safety and a path 13 to permanency for almost 32,000 children. 32,000 14 children. An umbrella commission of the sort you're 15 being asked to create is not too much infrastructure 16 to support and guide that effort, but in fact, is 17 particularly appropriate. 18 I would note, because there's been 19 mention of it, that 67 percent of all the money that 20 gets spent on child protection in Texas comes from 21 the federal government. And so Congress has made it 22 a bipartisan policy to want accountability for those 23 dollars that, in fact, children are being kept safe 24 and are moving appropriately to permanency; and 25 Congress has called for judicial leadership and is</p>	<p style="text-align: right;">Page 76</p> <p>1 branch and know how to work respectfully with the 2 legislative branch; and ultimately, whatever 3 resources the Legislature provides are what the 4 Legislature provides, and you do your best with it. 5 But one of the downsides of this is that you will be 6 calling for change not only inside the judiciary, 7 but potentially in those collaborative efforts with 8 your partners in the executive and legislative 9 branch. 10 Judge Hecht and I are old enough to 11 remember that just getting judges to wear robes in 12 court caused quite a stir not that long ago, and 13 change is hard. But it's important here. And I 14 want to close with these words from a CPS 15 caseworker. "Children do not slip through cracks in 16 the system. Children slip through the fingers of 17 our hands." And I want to commend you for this 18 effort, and I very much hope you'll create this 19 commission and would be happy to help you in any way 20 that I can. 21 CHIEF JUSTICE JEFFERSON: Thank 22 you, Judge. In part of your testimony you mentioned 23 that judges are not adequately prepared or trained, 24 and I wanted to ask you whether we in Texas and 25 whether and to what extent do we have courts that</p>
<p style="text-align: right;">Page 75</p> <p>1 willing to pick up part of that tab. 2 And one of the geniuses behind the 3 commission, if it works like the Access to Justice 4 Commission worked, is that the commission will be 5 able to leverage additional resources, philanthropic 6 resources and other resources. So I think those are 7 all legitimate concerns, but I think none should 8 stand in the way of you moving forward. 9 I want to toss out one last note of 10 caution. There's really two different things that 11 this commission will be doing. One is looking 12 inward to the courts. Are we doing the best we can 13 do to discharge our responsibility? But inevitably 14 when we start looking at that question and we start 15 thinking about -- and there was a question about it 16 earlier -- about are our orders effective, can we 17 order visitation and have it be accomplished, we're 18 going to find ourselves in tension with the 19 executive branch, and we're going to find ourselves 20 in tension with the legislative branch as we call 21 for the resources that are necessary to make our 22 orders effective and to properly administer justice. 23 And that is a downside of going down 24 this path. Now, I don't think it's a danger, 25 because judges know how to work with the executive</p>	<p style="text-align: right;">Page 77</p> <p>1 specialize in children, youth and families? 2 JUDGE McCOWN: Well, one of the 3 things we've done in our rural communities through 4 the Supreme Court Task Force on Foster Care -- and 5 this is a great example of collaborating with the 6 executive branch and securing funding from the 7 legislative branch -- is we created the cluster 8 courts, which many of our rural areas now have more 9 expert child protection courts than our urban areas, 10 because they have dedicated courts with special 11 training who work on these cases. 12 I forget the figure, someone else 13 will have to give it to you, but it's something like 14 80 percent of rural Texas is now covered by cluster 15 court, something of that magnitude. Many of our 16 urban counties have strong courts, though they have 17 overwhelmed dockets; good judges, but too much work. 18 Where we tend to actually hurt is in the mid size, 19 in the place that's too big to be urban and 20 specialized and -- I mean, excuse me, too small to 21 be urban and specialized and too big to have a 22 cluster court. And so it's really that mid-level 23 jurisdiction that I think lacks the specialties and 24 the training and the resources most of all. 25 CHIEF JUSTICE JEFFERSON: How is</p>

<p style="text-align: right;">Page 78</p> <p>1 that accomplished when our courts are courts of 2 general jurisdiction? Are there statutory changes 3 that, in an urban setting, for example, conferred 4 special jurisdiction on family matters to the court, 5 or is it by custom in the locality? How does that 6 work? 7 JUDGE McCOWN: Well, oddly 8 enough, the local administrative judge statute gives 9 the local administrative judge tremendous assignment 10 power. They don't exercise it much, but in our 11 larger settings you have enough judges that someone 12 will be designated or recruited to handle these 13 cases, and hopefully, that's a someone who's 14 interested in doing the work. 15 But you're quite right that the real 16 hole in the system is that court of general 17 jurisdiction that may have several counties and few 18 resources and is trying to cover a very broad array 19 of cases. And, you know, another key issue is not 20 just with the judges, it's with the representation, 21 and this is where a commission could help 22 tremendously. But lawyers, lawyers for the 23 department, lawyers for the children, lawyers for 24 the parents are all undertrained and 25 undercompensated, and that's a serious problem as</p>	<p style="text-align: right;">Page 80</p> <p>1 JUDGE McCOWN: Well, I think 2 it's a great idea. Our statute already has a child 3 welfare board at the local level. Some of our 4 communities like Harris County and like Fort Worth 5 and Dallas have pretty vibrant child welfare boards. 6 They might could be the nucleus of an effort to 7 organize locally, but I think that there should be 8 some local connection to the commission. Whether 9 you do that -- that there ought to be some way, 10 because you're right that these problems are going 11 to be best attacked at the local level. And it's 12 not going to be the same plan in every community, 13 because you're going to have different needs and 14 different judges. But I think that's a good -- 15 JUSTICE O'NEILL: I would 16 welcome any input on that in terms of whether they 17 should -- any sort of local board would be 18 structured according to judicial districts, judicial 19 administrative regions. How local should local be? 20 JUDGE McCOWN: Well, then you 21 might want to pick the department's regions and 22 organize them by the department's regions. That 23 would be another option. Well, thank you again. 24 CHIEF JUSTICE JEFFERSON: Thank 25 you very much, Judge McCown. The Court will now</p>
<p style="text-align: right;">Page 79</p> <p>1 well. So that would be another area that the 2 commission looking inward could focus on. 3 JUSTICE MEDINA: Judge, you made 4 a comment that there are not enough resources, and 5 you said something like civil judges will go home 6 early when family court judges are trying to resolve 7 these cases. How do we resolve that problem? 8 JUDGE McCOWN: Well, that is a 9 tough problem to resolve and one that this Court and 10 others have worked on for years. But we don't put 11 the docket hours into CPS. I mean, I was with a 12 great group of colleagues here in Travis County, 13 very supportive -- you're going to hear from a 14 Travis County judge later -- but if I had asked them 15 to give me as many hours as the job really demanded, 16 they would have been real upset with me. We don't 17 have the time on these dockets, and that is a tough 18 problem. 19 JUSTICE O'NEILL: Judge, what do 20 you think about the concept of local commissions as 21 well? Texas is a little bit different than 22 California in a number of respects. We don't have 23 an integrated judiciary, we have 254 counties. What 24 do you think about the idea of creating local 25 commissions?</p>	<p style="text-align: right;">Page 81</p> <p>1 take a brief recess, and we will return here at 2 11:00 a.m. sharp. We'll see you then. 3 (At this time the proceedings 4 recessed.) 5 CHIEF JUSTICE JEFFERSON: Be 6 seated, please. The Marshal will announce our next 7 witness, please. 8 THE MARSHAL: May it please the 9 Court, Dr. David Sanders, Executive Vice President 10 of Systems Improvement for Casey Family Programs of 11 Seattle has requested 15 minutes for testimony. 12 DR. SANDERS: Good morning. 13 Thanks to Chief Justice Jefferson and to Justice 14 O'Neill and the Supreme Court of Texas for this 15 tremendous opportunity, and I'm truly honored. I'm 16 David Sanders, the Executive Vice President of 17 Systems Improvement for Casey Family Programs, the 18 nation's largest operating foundation focused solely 19 on providing, improving, and ultimately preventing 20 the need for foster care. You also have written 21 testimony from William Bell, the foundation's 22 president and CEO. 23 During my time today I'm going to 24 cover three areas. First, Casey Family Program's 25 work in Texas; second, my experience as a child</p>

<p style="text-align: right;">Page 82</p> <p>1 welfare director in Hennepin County, which is 2 Minneapolis, and in Los Angeles County; and third, a 3 couple of recommendations. 4 First, I want to express our 5 foundation's strong support for the Court's 6 consideration of a Commission on Children, Youth and 7 Families. You'll hear throughout my remarks the 8 reasons for this support, but I commend the 9 leadership of the Court in taking on this issue. 10 Casey Family Programs has worked with Child 11 Protective Services in Texas for many years. We 12 have two offices in Texas that provide foster care 13 services and are proud of our work in this state. 14 As a foundation we believe that child 15 welfare systems through strong leadership must work 16 to prevent children from being abused or neglected 17 in the first place, must accurately assess the 18 child's risk of further abuse, must accurately 19 assess whether children are in imminent danger in 20 their current environment; and if they've been 21 abused, intervene appropriately to reduce that risk. 22 And that might include out-of-home 23 placement; and if a child is in out-of-home 24 placement, move quickly to permanency either through 25 reunification, some form of legal guardianship, or</p>	<p style="text-align: right;">Page 84</p> <p>1 Family Programs is supporting continued leadership 2 development for the child welfare agency's top 3 management. 4 Finally, Texas has been a national 5 leader in recognizing the need to address the 6 disproportionate number of children of color, 7 specifically African American children, entering 8 into and remaining in foster care, and our 9 foundation continues to support this effort, the 10 efforts in Texas in this regard. 11 Second, I want to talk briefly about 12 my experience in Hennepin County and in Los Angeles. 13 In Hennepin I experienced firsthand through the 14 dramatic changes when the child welfare agency court 15 advocates and others work closely to change a 16 system. The Minnesota Supreme Court Chief -- the 17 Minnesota Supreme Court Chief Justice during part of 18 my tenure there, Kathleen Blatz, whom many of you 19 know, had been a juvenile court judge in Hennepin 20 County prior to her appointment to the Supreme 21 Court. 22 During my time in Hennepin the court 23 and agency worked closely to improve reasonable 24 efforts and to significantly shorten the time to 25 permanency. We supported an increased frequency of</p>
<p style="text-align: right;">Page 83</p> <p>1 adoption. Finally, the child welfare system must 2 ensure a child's well-being, specifically in the 3 areas of education and mental health while in the 4 system's care. 5 You will notice that I mention the 6 importance of strong leadership. You heard earlier 7 from Joyce James, and state child welfare directors 8 turn over every 18 months on the average; and when a 9 state has a strong child welfare leader, it's 10 critical to support them. Texas has one of the best 11 in Joyce James, and with the leadership of Ms. James 12 and the Department of Family and Protective Services 13 Commissioner Kerry Cockrell, we believe Texas is 14 well positioned to continue the improvements evident 15 during the past few years. 16 Specifically Casey Family Programs is 17 working with Texas to support the initiation of 18 family team meetings prior to initial placement 19 decisions, which we believe is a key strategy to 20 ensuring reasonable efforts. Furthermore, Texas' 21 significant infusion of investigative and, more 22 recently, conservatorship staff will result in both 23 improved safety and shortened time to permanency. 24 However, it will require leadership to continue to 25 move the system to improved outcomes, and Casey</p>	<p style="text-align: right;">Page 85</p> <p>1 hearings, the means to more diligent court 2 oversight, and shortened time to permanency. This 3 was accompanied by more frequent contact between 4 social workers and families, more rapid access to 5 services for families, and significantly-improved 6 information to the court. 7 Finally, in Hennepin we believed 8 it was equally important to assure strong 9 representation of children and families, and the 10 overall result was a system that approached 11 permanency with a much greater sense of urgency. 12 Upon her appointment to the Supreme 13 Court and subsequent appointment as Chief Justice, 14 Ms. Blatz created what was probably the first 15 statewide judicial commission, of which I was a 16 member. The commission led many changes in the 17 state, including changes in judicial rules, in 18 advocacy for legislative changes that resulted in 19 significantly-improved time to permanency. In fact, 20 Minnesota now has one of the shortest times to 21 permanency for children served in its child welfare 22 system of any state. 23 Finally, the commission supported 24 the very controversial act of opening the juvenile 25 court to the public, which I believe resulted in a</p>

<p style="text-align: right;">Page 86</p> <p>1 more accountable, improved system. Finally you've 2 heard much about the work in California from 3 Christopher Wu and Len Edwards. I was also part of 4 the Supreme Court Foster Care Commission from my 5 position as director of Los Angeles County's child 6 protection system in from 2003 until 2006. 7 Let me provide just a brief context 8 about Los Angeles. Los Angeles is the largest local 9 child welfare system in the country. In fact, 10 Los Angeles serves more children in foster care than 11 the entire state of Texas. When I started, 12 Los Angeles was also described as the most dangerous 13 foster care system in the country. In addition to 14 some of the work you've heard from Christopher and 15 from Judge Edwards, I want to make a couple of 16 additions to their earlier comments. 17 In Los Angeles we believe we were 18 able to make significant improvements in outcomes 19 for children served in Los Angeles County during the 20 time that I was there. Perhaps most significantly, 21 the median days in care dropped from 1,200 at the 22 beginning of 2003 -- that's 1,200 days, median days 23 in care for children in foster care -- to 570 when I 24 left in 2006. 25 In addition, we improved safety in</p>	<p style="text-align: right;">Page 88</p> <p>1 and the child welfare agency and the leadership of 2 both the Supreme Court and the agency resulted in 3 improved outcomes. Children were safer, time to 4 permanency was improved, the court had better 5 information with which to make very difficult 6 decisions and could make reasonable efforts findings 7 with greater certainty, and overall many fewer 8 children needed to be in care. 9 In Los Angeles County that number 10 dropped from 30,000 in 2003 to 21,000 in 2006, and I 11 think the most important piece of the work in both 12 jurisdictions was the recognition that both the 13 judicial and executive branches have important roles 14 and must support each other in the efforts. 15 Therefore, I'm going to close with a 16 couple of recommendations. First, I strongly 17 support the Court's leadership in establishing a 18 commission, and my experience with two commissions 19 has been extremely positive, and I believe they 20 contributed to improved outcomes for children in the 21 two systems that I was part of. 22 I would just mention that the 23 commissions functioned very differently. In 24 Minnesota Chief Justice Blatz had a clear vision of 25 where she wanted to take the judiciary, and that</p>
<p style="text-align: right;">Page 87</p> <p>1 all of the federal measures as well as state 2 measures for children, both children who remained in 3 their own home after an intervention as well as 4 children who were removed and placed in foster care. 5 One primary reason for the improvement in outcomes, 6 and particularly the improvement in outcomes in time 7 to permanency, was our close relationship with the 8 court. Specifically, Chief Judge -- Juvenile Court 9 Judge Michael Nash and I defined the roles of the 10 department and the court very clearly, and we 11 assured we were working together in moving the 12 system forward in complementing the efforts of each 13 other as well as supporting the efforts of each of 14 the branches. 15 The department's role in Los Angeles 16 County was to define the outcomes and set the 17 direction, and the court's role was to ensure 18 accountability for everyone in the system 19 responsible for achieving those outcomes, including 20 workers, biological families, foster families, 21 lawyers, providers, and others. Finally, we met 22 weekly to assure that a consistent direction was 23 set. 24 In both of the systems that I've been 25 a part of the close relationship between the court</p>	<p style="text-align: right;">Page 89</p> <p>1 really resulted in much of the work of the 2 commission. In California, as you heard earlier 3 from Christopher Wu, it was a much more 4 collaborative process and consensus-based process. 5 And I think both have their place, and I think that 6 Texas will obviously end up with a commission if the 7 Supreme Court supports it that will be tailored 8 based on the needs of this state. 9 Second, it's imperative that the 10 court and child welfare agency work closely together 11 with defined roles, and I would suggest that you 12 consider the feasibility of whether the commissioner 13 of the Department of Family and Protective Services 14 should serve as a co-chair, a number two, or at 15 least in a clearly-stated prominent role that 16 reflects the joint responsibility that the executive 17 and judicial branches have for these children. 18 Thank you once again for the 19 opportunity to testify, and I am available for any 20 questions. 21 JUSTICE JOHNSON: I have a 22 question. How did you reduce the median time from 23 1,200 days to 500 in about three years? Was it an 24 influx of resources, or was it a combination of 25 factors?</p>

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1 DR. SANDERS: Let me talk
 2 about -- it was a combination of factors. Actually,
 3 the month I started we were in our budget process,
 4 and I found we were going to have to cut 400 staff.
 5 So we didn't have a huge influx of resources at
 6 least initially. Over time we did see some
 7 increased resources, but there were a couple of
 8 things that we did that I think probably are best
 9 characterized by general principles.
 10 One is that as an agency I believed
 11 we had given up on permanency for older youth and
 12 that there were a number of older youth, 12 and up,
 13 that we felt couldn't move to permanency whether
 14 through adoption or through reunification or through
 15 guardianship. And so we -- one specific project
 16 that we did was bring retired social workers back
 17 into the agency to work with older youth to move
 18 them to permanency. And in fact, what we found was
 19 that most older youth actually had people in their
 20 lives that they could identify that were interested
 21 in adopting them or relatives who were interested in
 22 taking legal custody of them. So that was one
 23 piece, to really focus on older youth.
 24 A second was that we implemented a
 25 number of changes at the front end of our system,

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1 and Ms. James talked about family team meetings. We
 2 thought that that was really important, because what
 3 we wanted to do was accomplish a move to permanency
 4 from the day the child came into care and really
 5 having a clear plan. And that's something we worked
 6 closely with the court on, that we not remove a
 7 child without also speaking to the court about what
 8 our permanent plan was for that child and to
 9 actively move towards that with the court assuring
 10 that our workers were moving in that direction and
 11 us having identified family at an early point that
 12 could be available as resources for children.
 13 I think probably the third major
 14 thing that we did was we worked to put resources
 15 around families when they first came into care. And
 16 so if you actually look at what changed in part, it
 17 was the percentage of children who were reunified
 18 within a year, and that number increased
 19 dramatically; and partly because, again, from the
 20 very beginning of placement we said that the goal
 21 has to be permanency. We have to bring resources
 22 that surround the child and surround the family. So
 23 we were able to move to reunification much more
 24 quickly in addition to the other permanency options.
 25 So those were three of the elements, but it was a

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1 multitude of factors.
 2 JUSTICE JOHNSON: Basically
 3 focusing?
 4 DR. SANDERS: Uh-huh. And
 5 saying that it was no longer acceptable. We just
 6 weren't going to allow children to stay in care the
 7 length of time that they had, and that message came
 8 from both the court and the agency.
 9 JUSTICE O'NEILL: I think too a
 10 point that we've struggled with here in Texas is the
 11 Legislature put more resources into investigation
 12 recently, and that has resulted in more removals,
 13 but that resource is on the back end to process
 14 those removals. It's my understanding that was done
 15 knowing that that would be the result but as a first
 16 step to improve the system. So that may affect our
 17 numbers in the short run.
 18 DR. SANDERS: I think so. I
 19 also think that the quality of investigations will
 20 improve as workers get trained and brought on and by
 21 having sufficient resources that the right decisions
 22 can be made at the front end, and that's really
 23 critical.
 24 CHIEF JUSTICE JEFFERSON: Other
 25 questions? Thank you very much, Mr. Sanders.

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1 THE MARSHAL: May it please the
 2 Court, Dr. David Wanser, Visiting Fellow of the
 3 Lyndon B. Johnson School of Public Affairs at the
 4 University of Texas at Austin. He has requested
 5 five minutes for testimony.
 6 DR. WANSER: Mr. Chief Justice,
 7 Justices, thank you for allowing me to be here
 8 today. Until recently I was Deputy Commissioner at
 9 the Department of State Health Services and had
 10 responsibility for mental health and substance abuse
 11 and primary care services for many of the folks that
 12 end up in the foster care system. Previous to that
 13 I was the Executive Director of the Commission on
 14 Alcohol and Drug Abuse for three years.
 15 But my first job was working for a
 16 district judge who said, "I've got to have choices
 17 other than sending these kids to foster care or
 18 sending juvenile offenders to institutions," and
 19 that's where I got started over 35 years ago. So
 20 I'm here today to talk about this intersection of
 21 what we know and what we do.
 22 A recent national study reported that
 23 68 percent of the children on protective service
 24 caseloads are mothers with substance abuse problems.
 25 Other statistics talk about 75 percent of the

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1 parents of kids in foster care have a mental health
 2 problem, a substance abuse problem, or both. In
 3 Texas 2,000 infants a year end up in CPS involvement
 4 because their -- they have tested positive for
 5 drugs. We graduate 2,000 kids a year out of the
 6 system.

7 And we know that the longer a child
 8 spends in foster care the less likely they are to
 9 succeed as adults. Odds ratios for children with
 10 histories of abuse and neglect and being exposed to
 11 other adverse circumstances like parental substance
 12 abuse, mental illness, violence in the home have
 13 exponentially-increased odds of having physical as
 14 well as behavioral health problems as adults.

15 The personal toll is so compelling,
 16 but the financial toll is even more so. It's
 17 estimated that in this country we spend \$248 million
 18 a day on the results of child abuse and neglect. In
 19 contrast we spend \$177 million a day in the war in
 20 Iraq. But yet there's no sustained national debate
 21 about how do we turn this around, how do we change
 22 this history.

23 I know judges have a responsibility
 24 to find the balance between the needs of child and
 25 those in the families, particularly when there's

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1 cloudiness around what's in the best interest for
 2 all parties concerned. And I clearly feel there's a
 3 role for courts that extends beyond the individual
 4 case, which is why the creation of this commission
 5 gives an opportunity for a voice in policy and
 6 practice to be heard in all the reaches of the
 7 state.

8 There are evidence-based standards
 9 for clinical care, and some of the collaborations
 10 that you've heard about today, and another one I'd
 11 like to bring to your attention to point out, those
 12 standards can be things that you can promulgate; and
 13 I think as a part of that that you can serve as a
 14 quality-improvement vehicle for courts all across
 15 the state. I have two quick examples of what can be
 16 achieved by that.

17 You've heard about family drug
 18 treatment courts. Family drug treatment courts in a
 19 national evaluation showed that children spend less
 20 time in out-of-home care, there's a third more
 21 children reunified, there's fewer adoptions, fewer
 22 children in residential treatment care, and that
 23 there's millions of dollars of savings that could be
 24 redirected into treatment as a result of using
 25 models like that.

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1 Another example is the Texas
 2 Partnership for Family Recovery. This is a
 3 cross-agency effort that has involved the Department
 4 of Family and Protective Services, the Department of
 5 State Health Services, the Office of Court
 6 Administration, the Court Improvement Project, Texas
 7 CASA. And for the last two years this project has
 8 had the benefit of national technical assistance in
 9 creating a best-practice guide. And the title of
 10 this guide is "Integrating Child Welfare, Substance
 11 Abuse, Judicial and Legal Service to Support
 12 Families."

13 There's specific concrete strategies
 14 in there for all the parties involved, and to be
 15 effective this guide has to be used. And I believe
 16 the commission can serve children of families in the
 17 foster care system by using both the structure and
 18 the content of this guide as a vehicle to show
 19 throughout the state what can be achieved, the
 20 successes that can be realized by these immediate
 21 opportunities to improve collaboration.

22 Beyond making this resource available
 23 and supporting its use, I think the ability to
 24 measure outcomes, to share outcomes of these types
 25 of models compared to business as usual and in doing

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1 so to show the return on investment of these better
 2 models, will go a long way toward the commission
 3 really leaving a lasting impact on children and
 4 families in Texas. Thank you.

5 CHIEF JUSTICE JEFFERSON: Thank
 6 you, Dr. Wanser. Are there questions? Thank you
 7 very much.

8 THE MARSHAL: May it please the
 9 Court, Mr. Carl Reynolds, Administrative Director of
 10 the Office of Court Administration, Austin, has
 11 requested five minutes for testimony.

12 MR. REYNOLDS: May it please the
 13 Court, it's an honor to address you today, and it's
 14 a privilege to be your Office of Court
 15 Administration Director. I hope you feel well
 16 served by our office. I want to thank Chief Justice
 17 Jefferson and the entire Court for taking the time
 18 to hold this powerful hearing today. My special
 19 thanks to Justice O'Neill for her leadership on this
 20 compelling topic and for her being so collegial and
 21 welcoming of our office's increased involvement in
 22 this area. I want to say a little bit about our
 23 involvement and then close with my own
 24 recommendation or my own endorsement of the
 25 commission concept.

<p style="text-align: right;">Page 98</p> <p>1 The Pew Commission recommendations 2 talked about strengthening courts in four ways: 3 Providing tools and information, strong judicial 4 leadership, effective representation for children 5 and families, and encouraging meaningful 6 collaboration. OCA has been particularly involved 7 in the first of those four areas, the tools and the 8 information. 9 We -- for one thing, we support and 10 provide technology to the child protection cluster 11 courts that you've heard mention of today. I think 12 Judge Specia and Judge Macias both mentioned the 13 cluster courts. Camile DuBoise was mentioned by 14 Judge Macias. She's an example of one of the 15 cluster court judges. Karin Bonicoro is here in the 16 courtroom today. She is one of our cluster court 17 judges. It's a unique program that has been admired 18 by other states. It's a creation of the Task Force 19 on Foster Care, and we're very proud to support it. 20 It's also, Mr. Chief Justice, a good example of a 21 specialization, judicial specialization in a complex 22 litigation context. 23 Second and more recently, we are the 24 recipient of court grant funding, CIP funding, for a 25 project we call TexDECK, Texas Data Enabled Courts</p>	<p style="text-align: right;">Page 100</p> <p>1 they're doing. 2 And when I say "how they're doing," I 3 mean in ways that you've heard about a little bit 4 today, measures that where the court system and the 5 child protection system share the goals of moving 6 children through the system justly and as quickly as 7 possible. So things like the percent of children in 8 care who achieve permanency within 12 months would 9 be a measure or the median length of stay in foster 10 care. 11 But we'd like to go much further in 12 terms of judicial support and informing judicial 13 practice with data. There's a national effort by 14 the ABA Center on Children and the Law, the National 15 Center for State Courts, and the National Council on 16 Juvenile and Family Court Judges. They have jointly 17 developed a toolkit for performance measurement in 18 these child abuse and neglect cases. The court 19 measures in the toolkit cover four areas, safety, 20 permanency, due process, and timeliness, and there 21 are -- what we'd like to do is drive the Texas court 22 system towards nine performance measures, nine core 23 measures that reflect those four pieces. 24 I'm running out of time, so I'm going 25 to move briskly to conclusion. I want to reiterate</p>
<p style="text-align: right;">Page 99</p> <p>1 for Kids, which has, depending on how you count 2 them, about four pieces to it, and I'll talk a 3 little bit about that. Long term what we want to do 4 is enable, is to provide Ace management systems and 5 information for courts -- and this is going back to 6 what Judge Specia described to you as an effort in 7 Bexar County. We're trying to feed that effort 8 statewide -- so that courts have the functionality 9 and the information they need for this kind of 10 high-maintenance litigation. 11 In the mid range we want to ensure 12 that judges have the most up-to-date information 13 about the kids who are in front of them gleaned from 14 the DFPS data system, which is called IMPACT, and 15 present it on a secure-access judicial web page. 16 In the short term we're working on 17 two projects. One is a weighted caseload study of 18 the work of district courts in Texas which will 19 provide great insight into the amount of time that 20 judges have to spend on these types of cases as well 21 as other case categories. And we are also 22 continuing to work with your CIP staff looking at 23 this, at the very powerful information that DFPS 24 already has in its IMPACT system and seeing how that 25 can be used to run reports that will tell judges how</p>	<p style="text-align: right;">Page 101</p> <p>1 the four Pew recommendations: Strong judicial 2 leadership; and collaboration, first and foremost, 3 and I think that a judicial commission would 4 inherently achieve both of those recommendations; 5 the issues of effective representation as have been 6 expressed could be furthered by a commission; and by 7 providing governance for the grant funding you could 8 also further the efforts of the TexDECK project and 9 other initiatives that will assist courts with tools 10 and information. 11 When this Court is so keenly focused 12 on its own productivity, I think it's perfect 13 timing. You've got a great staff that you've put in 14 place, very talented and committed staff on this 15 work, and establishing a commission such as this 16 would allow you to turn to your cases and focus on 17 them knowing and with confidence that you've put in 18 place the governance that this most important 19 mission of the state court system deserves. 20 CHIEF JUSTICE JEFFERSON: Thank 21 you, Mr. Reynolds. Are there questions? One 22 question I have is, TexDECK, where are we in terms 23 of -- when will it be rolled out, or are we getting 24 close? Are aspects of it already coming together? 25 MR. REYNOLDS: Well, there are</p>

<p style="text-align: right;">Page 102</p> <p>1 sort of different strategies over different lengths 2 of time. We've just started doing interviews with 3 judges who hear these cases to develop what are the 4 functional requirements, what does a software system 5 need to be able to do to help a judge manage a 6 docket like this. So that's just done, and that's a 7 long-term project.</p> <p>8 Just last week we met with your staff 9 with DFPS and started really looking at some of the 10 data that's available on that system already. So 11 we're beginning to realize the power of what's 12 already at our, almost at our fingertips. So we're 13 going to be moving forward with some strategies 14 around informing you-all in the judicial branch 15 about what we can tell about how the system is 16 working now. So there are different pieces that 17 will come into place at different times.</p> <p>18 JUSTICE WAINWRIGHT: Are there 19 statutory hurdles that erect legitimate 20 confidentiality barriers that need to be addressed 21 so that this information can all be presented to a 22 judge who can then have a holistic picture of what's 23 going on with a child?</p> <p>24 MR. REYNOLDS: I suspect that 25 there have been statutory and simply sort of</p>	<p style="text-align: right;">Page 104</p> <p>1 My name is Gina Schroeder, and I have been a CASA 2 volunteer for 15 years. As the court-appointed 3 special advocate we are appointed as the children's 4 guardian ad litem here in Travis County. Volunteers 5 must complete at least 40 hours of classroom 6 training, and we have continuing education each year 7 that we're required to do of 12 hours.</p> <p>8 I come before you today not as my 9 voice, but of the voice of the children that I have 10 had the honor of advocating for. The children are 11 very aware that their future is in the hands of the 12 courts. They want and need hope for their future. 13 I am very thankful to be an advocate in Travis 14 County where there is strong court leadership. Our 15 judges have given us the access and the tools to 16 bring before them any concerns we have for the 17 children.</p> <p>18 Having talked to volunteers in other 19 counties, I know this is not always the case. In 20 many cases their court reports go unread and they 21 are not allowed to speak openly in court. Being 22 appointed as a children's guardian ad litem enables 23 me to effectively advocate for the children's 24 educational and medical needs, adding an additional 25 level of stability for the children.</p>
<p style="text-align: right;">Page 103</p> <p>1 ex parte considerations that clearly need to be 2 taken into account so that you're not just giving a 3 judge all kinds of information that they shouldn't 4 have. We have to be very selective about what's 5 made available and when it's made available. So 6 that -- but that is a great point and something we 7 need to attend to.</p> <p>8 JUSTICE WAINWRIGHT: There may 9 need to be some legislative changes --</p> <p>10 MR. REYNOLDS: I can't tell you 11 the legislative change that would be needed, but I 12 don't think that that's -- that would be surprising.</p> <p>13 CHIEF JUSTICE JEFFERSON: Thank 14 you, Mr. Reynolds.</p> <p>15 MR. REYNOLDS: Thank you.</p> <p>16 THE MARSHAL: May it please the 17 Court, Ms. Gina Schroeder, a CASA volunteer in 18 Austin, has requested five minutes for her 19 testimony.</p> <p>20 MS. SCHROEDER: Chief Justice 21 Jefferson, Justice O'Neill, members of the Court, I 22 would like to thank you for your efforts in 23 establishing this commission. The need for 24 collaboration and consistency within our courts is 25 essential for providing our children with stability.</p>	<p style="text-align: right;">Page 105</p> <p>1 Even with all these there remain 2 serious challenges. I'd like to take you back 13 3 years to 1994 and introduce you to a newborn child 4 named Matthew. Matthew was born HIV-positive with 5 bipolar disorder. Within 48 hours of his birth the 6 State of Texas became his parents. Matthew is a 7 perfect example of the need for these judicial 8 initiatives.</p> <p>9 Matthew was immediately placed in a 10 group home for medically-fragile children. There 11 were no efforts to find a home to adopt him. In 12 2004, nine years later, the only home he knew was 13 shut down. Matthew spent the next four months in a 14 shelter, three weeks in a psychiatric hospital, and 15 the next year in a residential treatment center 16 primarily because of the instability, and we could 17 not find a home for him. It became obvious to CASA 18 his life-threatening illness played a role in 19 hindering us from finding a foster placement. 20 Additional concerns was his low level of 21 functioning.</p> <p>22 The availability and access we 23 have to the court has been invaluable to his care. 24 In 2005 the court granted orders for a 25 neuropsychological evaluation to determine his level</p>

<p style="text-align: right;">Page 106</p> <p>1 of functioning. Matthew was diagnosed mentally 2 retarded. This diagnosis alone may be the single 3 factor that keeps him from ending up living under a 4 bridge some day. He will be eligible for MHMR 5 services when he ages out of the system now. He's 6 been in a shelter since January of this year. In 7 June a foster home was found, but that placement 8 proved to be inappropriate for him. A month later 9 he was back in the shelter.</p> <p>10 He is losing hope he will ever have a 11 home, even a temporary one. The State only licenses 12 homes to children with a basic level of care. 13 Matthew is specialized. Private placement agencies 14 that contract with the State have few homes that 15 will accept children that are HIV-positive or have 16 mental disabilities. Nobody within our system is 17 required to provide a placement for this child.</p> <p>18 After almost four years of being his 19 advocate I fear for his future. This child has 20 found a gaping hole in our system. We have serious 21 placement issues that need to be addressed. There 22 is a crisis with a significant shortage of 23 psychiatrists that will accept Medicaid that see our 24 children. My hope is that the efforts of this 25 commission, all the children will have an</p>	<p style="text-align: right;">Page 108</p> <p>1 compensated, so you're giving yourself back to 2 community, and we appreciate that very much. Thank 3 you. Are there any questions? Thank you very much.</p> <p>4 THE MARSHAL: May it please the 5 Court, Mr. John J. Sampson, William Benjamin Wynn 6 Professor of Law at the University of Texas at 7 Austin School of Law has requested five minutes for 8 his testimony.</p> <p>9 MR. SAMPSON: Thank you for 10 allowing me to speak briefly on a subject dear to my 11 heart. I have provided two documents for your later 12 review if you choose to do so. The first one is 13 very ambitiously titled. It's called "A One-Page 14 History of Legal Representation, Abuse, and Neglect 15 to Children in Texas Under the Texas Family Code." 16 I got it on one page. It covers three decades-plus, 17 and I -- there's some gaps, perhaps, but it does hit 18 the highlights.</p> <p>19 We started with the Family Code in 20 1973. There was one little section that dealt with 21 representation of children, and it provided that a 22 guardian ad litem could be appointed -- should be 23 appointed, should be appointed, in every case in 24 which termination of parental rights was sought. 25 There was an implicit presumption, I guess, that</p>
<p style="text-align: right;">Page 107</p> <p>1 opportunity to have a foster placement and we can 2 ensure discrimination does not take place, that core 3 principles such as all children should be treated 4 equally and deserve safe and permanent homes can be 5 enacted and children like Matthew will have 6 opportunities from birth to be adopted by warm, 7 loving families. No child should be condemned to a 8 lifetime of parenting from our courts.</p> <p>9 And finally, my hope is that the 10 Texas Education Agency will play a significant role 11 in this commission. Children in foster care have 12 special issue and special needs. We need to be 13 collaborating with TEA and school districts on 14 educating and meeting the needs of our children in 15 foster care. The courts are parenting, caring for, 16 and trying to educate children going through what 17 will probably be the most significant trauma of 18 their lives. Their education is key to a hopeful 19 future. On behalf of Matthew and all the children 20 in foster care I thank you for your commitment in 21 considering this commission.</p> <p>22 CHIEF JUSTICE JEFFERSON: Ms. 23 Schroeder, thank you for that powerful testimony, 24 and the Court is well aware of the volunteer 25 services provided by CASA. We know they're not</p>	<p style="text-align: right;">Page 109</p> <p>1 that was a lawyer at least sometimes, had to be 2 sometimes, could be sometimes, might not be 3 sometimes if you could get another professional that 4 would serve in the role and no lawyerly duties were 5 expected.</p> <p>6 The first major change in basically 7 a nonstatutory directive was in 1978 when a 8 three-judge panel, federal judge panel in Houston 9 held that our Family Code was unconstitutional with 10 regard to State action in protecting children and the 11 chapter that did that in a variety of ways. And it 12 came up with half a dozen or so defects that caused 13 the statute to be unconstitutional. Said one of 14 those was that the child was not represented by 15 counsel when the State intervened in the family.</p> <p>16 The Texas Legislature reacted 17 quickly, although grudgingly, in 1979 by enacting a 18 statute that provided for an attorney ad litem, and 19 one of the things that wasn't provided was any 20 particular means for paying such a person. 21 Obviously it would be a lawyer and it would be 22 pro bono, involuntary pro bono, but that works 23 some -- that works pretty well in rural counties. 24 The bigger the county the more difficult it is for a 25 judge to convince a lawyer that he needs to do this</p>

<p style="text-align: right;">Page 110</p> <p>1 particular pro bono work. 2 In any event, that took place in 3 1979. This is an aside, I guess, but it is a part 4 of the history of legal representation of abused and 5 neglected kids. The University of Texas in 1980 6 formed a Children's Rights Clinic, and it continues 7 on today. The statistics are not bad. I think 8 there are close to a thousand students who have 9 represented 3,000 -- have handled 3,000 cases and 10 represented between 5,000 and 6,000 clients. Now, 11 those students are out there, and many of them, a 12 large number of them now serve as pro bono lawyers 13 in these kinds of cases because of their experience 14 in law school. 15 Back to my main history of legal 16 representation. The next big thing doesn't have 17 anything to do with legal representation. In 1981 18 CASA arrived in Texas, in Dallas, and went from its 19 original one county to coverage in 216 -- I'm sorry, 20 201 counties with 60-some programs. Now, why CASA 21 is important in the legal history is, 1981, well, 22 we're talking now 14 years. In 1995 there was a sea 23 change in the Family Code, and that sea change was 24 in large part triggered or spurred on by the 25 experience that CASA had had in representing</p>	<p style="text-align: right;">Page 112</p> <p>1 Judge in Quinlan and member of the Texas Court 2 Improvement Program Supreme Court Task Force on 3 Foster Care has requested five minutes for his 4 testimony. 5 JUDGE GAITHER: Chief Justice 6 Jefferson, members of this Honorable Court, it's a 7 pleasure and an honor for me to be here today and 8 speak in favor of the creation of this commission. 9 Children are the forgotten people in our society. 10 Many years ago it was illegal for you to leave your 11 dog in your car in the middle of the summer but not 12 to leave your child in there. Children don't vote 13 and so oftentimes politicians overlook them, and I'm 14 so happy that this Court is not doing so. 15 I echo the comments of everybody 16 who's talked to you about the problems inside the 17 courtroom, and they're certainly worthy of 18 consideration. But I want you to look at things 19 that could be done by this commission outside the 20 courtroom. Now, children really only need four 21 things. They need permanency, they need protection, 22 they need guidance, and they also need nurturing. 23 Now, when problems exist they'll exist in one of 24 these four areas. 25 When the family breaks down this is</p>
<p style="text-align: right;">Page 111</p> <p>1 children in their role. 2 And so they talked the Legislature 3 into dramatically changing the Family Code, putting 4 very detailed directives to laypersons and also to 5 lawyers, and the lawyers got in there with regard to 6 legislative directions because of the statements by 7 the CASA witnesses that lawyers weren't doing a very 8 good job. And so I'll read one little provision 9 that came in in 1995 that does seem peculiar. That 10 is, an attorney ad litem was directed as follows, 11 quote, "Within a reasonable time after the 12 appointment of an attorney ad litem shall interview 13 the child if the child is four years of age or 14 older." In other words, the lawyer had to see the 15 client. Now, you would think that that is an 16 obvious non-needed directive. 17 My last -- to conclude, my one-page 18 document here isn't something of a sham, because I 19 have provided an annotated copy of the Family Code 20 chapter that now deals with the subject. It's 25 21 pages long. Thank you, Your Honor. 22 CHIEF JUSTICE JEFFERSON: Thank 23 you. Are there any questions? Thank you very much. 24 THE MARSHAL: May it please the 25 Court, the Honorable Hal Gaither, Senior District</p>	<p style="text-align: right;">Page 113</p> <p>1 where you look to find out what has happened. Is 2 there a problem with protection? Is there a problem 3 with permanency? Is there a problem with nurturing 4 and guidance? That's where the breakdown is going 5 to be. And like it or not, the family, breakdown of 6 the family leads to crime and delinquency, it leads 7 to school dropouts and lack of education, it leads 8 to drug and alcohol abuse, and it leads to poverty. 9 So it's to all of our benefits to see to it that the 10 family structure remains intact when possible. 11 Families deserve to raise their 12 children without government interference, but what 13 happen when the family will not or cannot do its 14 job? Then there needs to be a structure to protect 15 the children. How do you structure a protection for 16 the children? How do you identify the problems? 17 You look at these issues through the eyes of a 18 child. 19 Now, one year out of your life and 20 out of my life probably is less than one percent of 21 the time we've lived, but one year out of the life 22 of a three-year-old is 33 percent of that child's 23 lifetime. And so when we look at the problems that 24 exist in permanency, in protection, in nurturing, 25 and in guidance we have to look at it through the</p>

<p style="text-align: right;">Page 114</p> <p>1 eyes of a child and we have to structure the 2 solutions through the eyes of a child. 3 Let me give you a couple of examples 4 of things that this commission might address. For 5 example, it's difficult for families to extract 6 themselves from the poverty level and from the 7 welfare system because they lack the job training 8 that's necessary to give them the skills that will 9 be necessary. They can't get the job training 10 because who's going to watch the kids? 11 Suppose this commission came up with 12 an idea like state-funded daycare? How would that 13 work? Well, the kids would come in at 7:00 o'clock 14 in the morning, they'd leave at 7:00 o'clock in the 15 evening. That gives the parents 12 hours. They'd 16 spend six hours working in the daycare to help 17 defray the cost. The other six hours they'd go to 18 job training. Then when they were trained 19 adequately they could use that six hours to go out 20 and look for a job. Think of the benefits of that: 21 Permanency, protection, nurturing, and guidance all 22 in one place. 23 A lack of foster care is a problem 24 with the department, and when foster care exists 25 often it's inadequate, because if you have a large</p>	<p style="text-align: right;">Page 116</p> <p>1 JUDGE GAITHER: I'm sorry. Were 2 there questions? 3 CHIEF JUSTICE JEFFERSON: There 4 were none. Thank you. 5 JUDGE GAITHER: I thought I 6 covered it so thoroughly there wouldn't be any. 7 CHIEF JUSTICE JEFFERSON: Indeed, 8 indeed. 9 THE MARSHAL: May it please the 10 Court, Ms. Carol Grimm, CASA volunteer in San Marcos 11 has requested five minutes for her testimony. 12 MS. GRIMM: Chief Justice 13 Jefferson and members of the Texas Supreme Court, 14 thank you for this opportunity to speak to you in 15 support of the creation of a Judicial Commission 16 for Children, Youth and Families. My name is 17 Carol Grimm. I'm a court-appointed special advocate 18 guardian ad litem for CASA of central Texas serving 19 the counties of Caldwell, Comal, Guadalupe, and 20 Hays. Our mission is to advocate for abused and 21 neglected children in the court system by 22 recruiting, training, and supporting community 23 volunteers. 24 I've been a CASA volunteer for over 25 six years. After 34 years working with children as</p>
<p style="text-align: right;">Page 115</p> <p>1 number of children and siblings, they won't fit in 2 one small foster home. Why not consider something 3 maybe like small group homes; not to replace the 4 single-family foster care, but to supplement it. 5 Now, consider the advantages. If you have a large 6 number of siblings, you've got a place for them. 7 And when it comes time for the foster parents to 8 move on, they move. The children stay where they 9 are. They've got the same pictures on the wall, 10 they've got the same faces that they see at 11 dinnertime, they've got the same school that they go 12 to. Everything's the same for the child. 13 Permanency, protection, nurturing, and guidance. 14 These are things that this commission could address. 15 Judges have a lot of things that they 16 can do, but the things we can do best is to point 17 out the problems. Nobody is in a better position to 18 point out the problems than the judges. And then 19 working with interested citizens on the -- from the 20 community that would be on this commission we could 21 come up with solutions that address permanency, 22 protection, nurturing, and guidance. I commend you. 23 Thank you. 24 CHIEF JUSTICE JEFFERSON: Thank 25 you, Judge. Questions?</p>	<p style="text-align: right;">Page 117</p> <p>1 a first and second grade teacher then a resource 2 teacher and finally an educational diagnostician, I 3 wanted to continue to make a difference in the lives 4 of children, and CASA offered me that opportunity. 5 I have been appointed in six cases totaling 11 6 children ages 4 months to 17 years. 7 In central Texas the court appoints 8 CASA as a guardian ad litem. In each of my six 9 cases I have remained with the children until the 10 case is closed by CPS and the court and permanency 11 has been achieved, where children have been reunited 12 with the parent or parents or the children have been 13 adopted or, in the case of one of my children, he 14 aged out in foster care. 15 After attending a state CASA 16 conference I learned that not all courts in Texas 17 appoint CASA as guardian ad litem. In those other 18 districts the CASA's role is significantly limited 19 in its impact on the quality of service to the 20 children and families in their area. I strongly 21 support the creation of a Judicial Commission for 22 Children, Youth and Families to establish 23 best-practice guidelines that will ensure all 24 stakeholders in each case have the same 25 understanding of their role in improving the</p>

<p style="text-align: right;">Page 118</p> <p>1 outcomes for children and their families. 2 And now I would like to share the 3 case of an eight-year-old girl for whom our system 4 failed. Most eight-year-olds are emotionally bonded 5 with his or her mom, regardless of the system's 6 opinion of the mother's ability to provide a safe 7 and secure environment. This little girl was 8 removed from her mother's care because of an older 9 sister's outcry against the eight-year-old's father, 10 the seventeen-year-old's stepfather. 11 Our eight-year-old had experienced no 12 neglect, no abuse, so this removal was a traumatic 13 experience for her. Go back to when you were eight 14 and consider what it would feel like to be removed 15 from the only home you'd known and to not understand 16 why. It is not unusual for children in similar 17 situations to act out hoping to get people to do 18 what they want, and really act out. Understand the 19 stress this little girl must have felt in strange 20 settings, new schools, unfamiliar people, and very 21 limited opportunity for visits with her mom. 22 From the temporary shelter where she 23 was placed after removal she was placed with a 24 maternal aunt, but after several weeks the aunt 25 reported tantrum behaviors and requested the girl</p>	<p style="text-align: right;">Page 120</p> <p>1 you very much, Ms. Grimm. Are there any questions? 2 Thank you for your service. 3 MS. GRIMM: You're welcome. 4 THE MARSHAL: May it please the 5 Court, Ms. Rebecca Lightsey, Executive Director of 6 Texas Applesseed, Austin, has requested five minutes 7 for her testimony. 8 MS. LIGHTSEY: Thank you 9 for this opportunity to address the Court. I'm 10 Rebecca Lightsey, Executive Director of Texas 11 Applesseed. Our mission is to leverage the talent 12 and resources of the pro bono bar to address 13 systemic issues in the state, and we have been at 14 the forefront of addressing societal issues the 15 state, the courts have faced, particularly with 16 beginning in the Fair Defense Act of 2001. 17 Our work with the passage of the Fair 18 Defense Act led us to examine the treatment of 19 children and criminal justice system in our current 20 project looking at this school-to-prison pipeline 21 where we are documenting the effects of school 22 discipline on children who get into this system. 23 Unfortunately, children in foster 24 care are particularly vulnerable to this pipeline, 25 and we know that they are more likely to perform</p>
<p style="text-align: right;">Page 119</p> <p>1 and her sister be removed. She was then placed with 2 a paternal aunt after a family group conference. 3 This placement too ended when the second aunt 4 reported noncompliant behaviors and tantrums. 5 At this point the girl was placed in 6 a youth shelter while a foster home was sought. 7 Again, the shelter reported similar behaviors by our 8 eight-year-old traumatized little girl. No therapy 9 or psychological services were given to this child 10 until court ordered after the second aunt had 11 complained and the child had been placed in that 12 youth shelter again. She remained in that shelter 13 for six weeks until a permanency hearing returned 14 this girl to her mother's care on a monitored 15 status. 16 The services this child should have 17 received from the beginning would more likely have 18 been initiated with better collaboration between 19 stakeholders and with best-practice guidelines in 20 place for each of these stakeholders. With the 21 establishment of a Judicial Commission for Children, 22 Youth and Families you, the Supreme Court of Texas, 23 can make a positive difference in the lives of Texas 24 children. Thank you. 25 CHIEF JUSTICE JEFFERSON: Thank</p>	<p style="text-align: right;">Page 121</p> <p>1 poorly academically and to have behavioral problems, 2 as we were just discussing, and then end up in the 3 juvenile justice system. Data also tells us, 4 though, that children in foster care who -- can 5 succeed in school with the types of assistance that 6 we know that they need. 7 We have worked closely with the 8 judiciary on our children-focused programs, and so 9 we particularly want to commend this Court for 10 looking at the issue of foster care. It is an issue 11 that Applesseed is recognizing as a significant 12 problem in the state. In fact, today we are 13 releasing a report on the state of foster care in 14 Texas, and our author, Steve Ryan, will be here to 15 address you in a moment. 16 This work to us is very analogous to 17 what we have seen the courts do in the area of 18 defendants with mental health and mental retardation 19 in the criminal justice system. The Court of 20 Criminal Appeals has created a task force -- which, 21 incidentally, has drawn down some federal 22 money -- to look at how to best address defendants 23 with mental health and mental retardation issues. 24 We see that the same can be done with foster care 25 children.</p>

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1 This is, as I mentioned, a critical
 2 issue which you-all know about, but I want to just
 3 briefly address one of the issues and how this
 4 commission could impact that. We are seeing a
 5 significant increase in the number of children in
 6 foster care. The number of children in foster care
 7 has increased from about 13,000 in 2004 to 17,000,
 8 over 17,000 at the end of '06. We're looking at
 9 nearly a 40-percent increase in the number of
 10 children in foster care in this state in the last
 11 four years.

12 We are, unfortunately, not looking at
 13 an increase in funding or corollary increase in
 14 funding and training for conservatorship
 15 caseworkers, those caseworkers who are charged with
 16 seeing that these children get the services they
 17 need and get out of the foster care system. In
 18 fact, what we're seeing is the caseloads for the
 19 caseworkers have increased from 40 cases in 2005 to
 20 45 cases in 2006. Now, this compares with a
 21 national average of 24 caseworkers. So clearly, the
 22 caseworkers are seriously overworked in Texas.

23 What does that mean for the courts?
 24 Well, obviously, an unmanageable caseload results in
 25 poor quality which results in the -- affects the

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1 ability of the courts to be able to get the
 2 information that they need and make decisions that
 3 are in the best interest for the child. So with
 4 this serious strain on the caseworkers we feel that
 5 it's imperative that the courts be able to do
 6 everything they can to have a coordinated, informed
 7 system; and we think that the state -- the courts
 8 are already beginning to take those steps, for
 9 instance, with the cluster courts and the work that
 10 you have done with the case management system.

11 But we recognize there is much more
 12 to be done, so we want to thank the Court for
 13 considering this issue and offer our support for
 14 anything we can contribute as you move toward.
 15 Thank you.

16 CHIEF JUSTICE JEFFERSON: Thank
 17 you, Ms. Lightsey. Are there questions?
 18 JUSTICE MEDINA: What caused the
 19 significant increase from 2004 to 2006 in the number
 20 of children in foster care?
 21 MS. LIGHTSEY: Steve Ryan will
 22 be talking about this a little more in a moment, but
 23 basically, there were some, frankly, some deaths of
 24 children in the foster care system in '04 and in
 25 '05. The Legislature recognized that and increased

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1 funding for investigators so that there was more
 2 investigations of children in danger. And that
 3 caused an increase in number of children being
 4 removed from dangerous situations, but
 5 unfortunately, it left them with huge caseloads in
 6 dealing with that.

7 CHIEF JUSTICE JEFFERSON: Thank
 8 you very much.

9 JUSTICE O'NEILL: I'd like to
 10 also thank Rebecca Lightsey and Stephen. They have
 11 come to the Consultative Group meetings and had
 12 tremendous input on some of the recommendations to
 13 the Consultative Group. So thank you for the time
 14 you've put into the process.

15 MS. LIGHTSEY: Thank you, and
 16 thank you all for your leadership.

17 THE MARSHAL: May it please the
 18 Court, Mr. Stephen Ryan, Associate at LeBoeuf, Lamb,
 19 Green & MacRae, LLP in Houston has requested five
 20 minutes for testimony.

21 MR. RYAN: Chief Justice
 22 Jefferson, members of the Court, thank you for this
 23 opportunity to speak about foster care in Texas
 24 today and the Judicial Commission on Children, Youth
 25 and Families. I've given a copy of the report that

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1 we've worked on with Applesseed for the Court to look
 2 at later.

3 I'd like to take a couple of minutes
 4 to highlight two of the major issues that Texas
 5 Applesseed is most concerned with in foster
 6 care -- and that's inadequate funding and the
 7 caseworker overload problem that Rebecca
 8 mentioned -- and then discuss some of the ways we
 9 think a judicial commission could improve the foster
 10 care system in Texas.

11 Since 2004 when the Forgotten
 12 Children Report exposed many of the serious problems
 13 in the Texas foster care system there have been two
 14 major legislative efforts to reform the system.
 15 Senate Bill 6 in 2005 and Senate Bill 758 in 2007.
 16 And both of those did good things and brought about
 17 necessary reforms, but there's still a lot of work
 18 that needs to be done. SB 6's reforms, as Rebecca
 19 mentioned, were primarily aimed at improving CPS
 20 investigations and reducing CPS's large,
 21 unmanageable investigative caseloads, and it appears
 22 to have achieved that goal in large part.

23 It improved investigations, improved
 24 training for investigators, and provided funding for
 25 the hiring of many more investigators. It also

<p style="text-align: right;">Page 126</p> <p>1 resulted in more children being removed from their 2 homes because of the improved investigations and 3 increased number of investigation. And so it 4 increased the strain on the already overburdened 5 foster care portion of the system, which is the back 6 end of the system. 7 Now, none of the new funding that 8 was provided in 2005 -- which was about \$250 9 million -- went to the foster care portion of the 10 system. This year along with the passage of SB 758 11 the Legislature provided about \$100 million in new 12 funding for the foster care portion of the system, 13 and most of this was intended to help reduce these 14 foster care caseworker caseloads. But that funding 15 is only projected by DFPS estimates to reduce the 16 caseloads from 46 per caseworker down to 41, which 17 is still higher than the 2005 average of 40. 18 In addition, that estimate assumes 19 that the number of children in foster care will 20 remain steady, which we already know is an 21 unreasonable estimate. It's increasing. So given 22 the rapidly increasing number of children in foster 23 care, the small increase in funding is likely to 24 do -- is not likely to do much other than perhaps 25 reduce the rate of increase in the caseloads.</p>	<p style="text-align: right;">Page 128</p> <p>1 to do something, because there are things that can 2 be done from within the court system and within the 3 players in the system. 4 Cluster courts are a good example of 5 how court initiatives can improve the efficiency of 6 the court system and improve the well being of 7 children in the system. And with the help of the 8 commission that concept could be improved, it could 9 be expanded to other areas; parts of it could be put 10 into areas that don't need a cluster court, perhaps 11 they need special training for judges and other 12 people in the system. 13 The creation of a permanent 14 commission also presents other possibilities to 15 improve the system. For example, earlier this year 16 CPS disclosed that a large number of children, 17 hundreds, had spent at least one night in the State 18 office because of a lack of foster care facilities 19 to place the children in overnight. The Travis 20 County district courts, the judges of those district 21 courts issued a standing order on their own 22 initiative that prohibited CPS from putting children 23 in State offices overnight absent an emergency 24 affecting the physical health and safety of the 25 child. And the number of children spending the</p>
<p style="text-align: right;">Page 127</p> <p>1 In the foster care system the 2 caseworkers are the means by which the children 3 access the critical services they need, and the 4 caseworkers are the only ones charged with making 5 sure they get those services. And when they have, 6 the caseworkers have caseloads that are three times 7 the recommended maximum and is almost double what 8 the national average is; and also when they don't 9 have enough training and experience to do the job 10 because of high turnover and burnout, they can't 11 provide the services the children need. And the 12 children in the system are the ones that suffer. 13 Turning to the commission, even 14 though the proposed commission won't be able to 15 directly address those important issues of funding 16 and caseworker overload, it nevertheless has great 17 potential to affect several other issues affecting 18 children in the foster care system and improve them. 19 The commission has the potential to affect these 20 issues because it will allow a high level of 21 interaction and collaboration between the critical 22 components of the foster care system outside of 23 individual cases which might allow innovative 24 solutions to be discussed and implemented without 25 having to wait every two years for the Legislature</p>	<p style="text-align: right;">Page 129</p> <p>1 night in State offices declined as a result of that. 2 If a commission, like the one 3 proposed, had been in existence, it's possible that 4 with the increase in collaboration and communication 5 with the courts and other people across the state in 6 the foster care system, it might have resulted in 7 either standing orders being issued in other 8 counties or, through that increased collaboration, 9 you know, between CPS attorneys, CASA and others, 10 alternative solutions might have been found quickly 11 to solve the problem or at least reduce the problem 12 short of creating a standing order. 13 So to conclude, the commission is a 14 great way also to keep foster care issues in the 15 forefront by having a commission that's dedicated to 16 improving child welfare outcomes in the Texas foster 17 care system, it will increase public awareness of 18 the problems and issues facing the system, and, 19 hopefully, increase public support for resolving 20 those issues, including those issues of inadequate 21 funding and caseworker overload. We think the 22 proposed commission has the potential to improve 23 court efficiency, improve outcomes for children and 24 families in the system, and keep these important 25 issues in the public eye. Thank you.</p>

<p style="text-align: right;">Page 130</p> <p>1 CHIEF JUSTICE JEFFERSON: Thank 2 you very much. Are there any questions? Thank you, 3 Mr. Ryan. 4 MR. RYAN: Thank you, Your 5 Honor. 6 THE MARSHAL: May it please the 7 Court, Ms. Beverly Levy, Executive Director of 8 Dallas CASA. She has requested five minutes for 9 testimony. 10 MS. LEVY: Good morning and 11 thank you, Chief Justice Jefferson and members of 12 the Court, for allowing me to be here today, and a 13 special thank you to Justice O'Neill for your 14 leadership and for that brilliant article in the Bar 15 Journal. The actions under consideration by this 16 Honorable Court today announce to the people of 17 Texas the high priority that our judiciary places on 18 children under the protective care of our courts. 19 I'm honored to be a part of this historic and 20 unprecedented process. 21 Dallas CASA is the oldest CASA 22 program in Texas and the third oldest of the over 23 900 CASA programs in the country. I've been 24 Executive Director of Dallas CASA for 14 years. I'm 25 the longest-serving director of a large urban CASA</p>	<p style="text-align: right;">Page 132</p> <p>1 I'm here to speak to one successful example in 2 Dallas County. 3 It started out with Dallas CASA and 4 local judges meeting together, meetings initiated by 5 CASA to identify solution to common concerns. For 6 example, we are all deeply concerned about the lack 7 of communication about psychotropic medications our 8 kids were being given. An early important result of 9 these discussions was the creation of a psychotropic 10 meds reporting tool to give judges and everyone 11 involved in the child's case at every hearing clear 12 and essential information about what meds kids are 13 on, then training on these medications, important 14 steps in realizing cohesive care for our kids. 15 So a seven-year-old child -- I'll 16 call Johnny -- no longer trembles because of the 17 five different behavior-modifying meds he was on. 18 In fact, Johnny is no longer on any meds, and he is 19 doing beautifully. 20 The initial meetings were fruitful, 21 and so the meetings were expanded to including the 22 leadership of CPS, locally and regionally, and the 23 chief ADAs and selected attorneys who represent 24 children and parents. Through these monthly 25 meetings facilitated by CASA we've established</p>
<p style="text-align: right;">Page 131</p> <p>1 program in the country, but most people just call me 2 the oldest. 3 I've seen firsthand how much abused 4 and neglected children need all of us to work 5 together on their behalf. In almost three decades 6 our volunteers, staff, and board have been able to 7 learn much from our experiences working with nearly 8 1,000 abused and neglected children in care every 9 year in Dallas. We realize, as I know you do as 10 well, that a courthouse is not a home, that those 11 unfortunate children who come to our attention 12 benefit most when we, the courts, Child Protective 13 Services, district attorneys, and organizations such 14 as CASA are truly collaborative, working together to 15 achieve the best outcomes possible for each one of 16 our kids. Yet the proposed creation of a judicial 17 commission to help our courts better serve child 18 victims in Texas is recognition of the fact that 19 ideal collaboration doesn't naturally occur. 20 Even with the identical objective of 21 advancing the best interest of children in care, 22 fostering that ideal collaboration takes time, it 23 takes focus; and to use a term which Justice O'Neill 24 has used, it takes a gatekeeper. Although you've 25 heard about many good examples of best practices,</p>	<p style="text-align: right;">Page 133</p> <p>1 regular communication about even more topics, like 2 common issues, obstacles, and new approaches to 3 improving all of our efforts for children in care. 4 Although this process has created new tools to get 5 essential information not only about medication, 6 it's also helped on various issues like placement 7 changes and permanency efforts. And we've used 8 these meetings to coordinate important projects like 9 identifying records to expedite adoption. 10 This experience has given me two 11 messages to offer you today. The first is that the 12 most critical element in the success of these 13 initiatives has been the extraordinary leadership 14 provided by our judges, judges who have indeed taken 15 on the role of gatekeeper, responsible not just for 16 admission of the abused and neglected children into 17 the court system, but also for ensuring that clear 18 focus is applied to areas in which these children 19 can be better served. The involvement of our judges 20 has facilitated accountability and understanding. 21 And as I've said, judges aren't the 22 only ones with the best interests of our children at 23 the forefront of their mind. However, I would offer 24 that judges must be seen and must see themselves as 25 first among equals in this regard. In the complex,</p>

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1 institutional world of child welfare system the fact
 2 that everyone has responsibility often means that no
 3 one feels responsibility for the outcome. Having
 4 judicial leadership as gatekeeper in all the best
 5 senses of that word has been a tremendous benefit to
 6 the children of Dallas County. By the end of the
 7 day it's been accountability insisted upon by our
 8 judges which has made these meetings effective.
 9 The second message I'd offer is the
 10 obvious one, the need for clear agendas and clear
 11 accountability for those whose job it is to improve
 12 services to our children. We've seen this
 13 cooperation work effectively on a local level, and
 14 we understand how powerful it can be on a state
 15 level. No abused and neglected child under the
 16 protective care of the courts should have to wait
 17 for the best care to help them heal from their abuse
 18 or to wait for safe, permanent homes where they can
 19 thrive.
 20 Gabriela Mistral, the poet, wrote,
 21 "Many things we need can wait. The child cannot.
 22 Now is the time his bones are being formed, his
 23 blood is being made, his mind is being developed.
 24 To him we cannot say tomorrow, his name is today."
 25 The actions under consideration today

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1 if implemented with strong leadership and insistence
 2 upon collaboration and accountability can keep our
 3 abused and neglected children in Texas from waiting
 4 until tomorrow. Thank you.
 5 **CHIEF JUSTICE JEFFERSON:** Very
 6 nice testimony. Thank you very much. Are there
 7 questions? Thank you, Ms. Levy.
 8 **THE MARSHAL:** May it please the
 9 Court, the Honorable Andy Hathcock, Associate Judge
 10 in the Travis County District Courts in Austin has
 11 requested five minutes for testimony.
 12 **JUDGE HATHCOCK:** Chief Justice
 13 Jefferson, Members of the Court, I appreciate the
 14 opportunity to appear before you today. Professor
 15 Sampson mentioned the Children's Rights Clinic. I
 16 embarked on my current career path first as a
 17 student in the Children's Rights Clinic and later
 18 came back to the law school to teach at the clinic
 19 for 11 years until I was appointed as the first
 20 associate judge for the Child Protection Court for
 21 Central Texas, which is one of the cluster courts
 22 that has been discussed previously today.
 23 At the time it was, I believe, the
 24 fourth such court created -- this was in January of
 25 2000 -- and today there are 15 courts covering 123

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1 counties. The idea was relatively simple, to
 2 combine a group or a cluster of rural counties
 3 together to create a dedicated docket and have a
 4 full-time judge assigned to hear the child
 5 protection cases in those counties. And it worked
 6 very much as others have described it. The cases
 7 got the attention that they deserved, we had as much
 8 time as they needed, there was one judge to follow a
 9 case from the beginning all the way to the end, and
 10 we achieved permanency in a timely fashion.
 11 But I wanted to talk briefly about
 12 some unanticipated consequence that was very
 13 positive. Simply by existing, the concept of the
 14 cluster court sent the message to the community that
 15 the judiciary takes these cases seriously, that they
 16 are important, that they're worthy of having a
 17 specialized court hearing them and having their own
 18 docket. And that effect created a synergy, first
 19 among the stakeholders.
 20 The local CASA program became
 21 revitalized. They began to recruit more volunteers.
 22 Volunteers felt that there was someone there
 23 listening, that their work was valued, it was much
 24 more meaningful, and the program was able to recruit
 25 and train more volunteers. The morale of the CPS

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1 caseworkers improved. They felt they had a forum
 2 where they could be heard and present their side of
 3 things. They said that they appreciated being held
 4 accountable by the court to do the job that they
 5 were supposed to do.
 6 And that synergy expanded beyond just
 7 the stakeholders to the larger communities. We
 8 implemented family group conferencing, mediation;
 9 one of the local children's shelters expanded its
 10 services, one local community created a children's
 11 advocacy center.
 12 And I see the creation of a State
 13 Commission on Children, Youth and Families offering
 14 that same opportunity for synergy statewide. This
 15 Court is the head of the judicial branch in the
 16 state of Texas, and by creating this commission
 17 you're sending the message throughout the state that
 18 the judiciary values these cases, places high
 19 importance on them, we value children and we want to
 20 improve the standards that we've established and
 21 make sure that children's needs are adequately met.
 22 So I enthusiastically endorse the
 23 idea of a State Commission on Children, Youth and
 24 Families and urge the Court to adopt the
 25 recommendations of the Consultative Group. Thank

<p style="text-align: right;">Page 138</p> <p>1 you.</p> <p>2 CHIEF JUSTICE JEFFERSON: Judge,</p> <p>3 you travel from county to county; is that right?</p> <p>4 JUDGE HATHCOCK: I did. I</p> <p>5 started out with four counties and expanded to six.</p> <p>6 CHIEF JUSTICE JEFFERSON: And</p> <p>7 when that happens do the commissioners courts in the</p> <p>8 various counties make accommodation for you? How</p> <p>9 does that work?</p> <p>10 JUDGE HATHCOCK: It varied from</p> <p>11 county to county. Some counties were more -- had</p> <p>12 more resources than others, and we often made do</p> <p>13 with what we had. I tried a termination jury trial</p> <p>14 in one county using the local fellowship hall of the</p> <p>15 Presbyterian Church as a courtroom. It kind of went</p> <p>16 back to the old days of circuit-riding judges and</p> <p>17 holding court under the tree in the courthouse</p> <p>18 square. But we made it work, and it did and the</p> <p>19 communities became very supportive of the idea.</p> <p>20 CHIEF JUSTICE JEFFERSON: Thank</p> <p>21 you. Are there any questions?</p> <p>22 JUDGE HATHCOCK: Thank you.</p> <p>23 CHIEF JUSTICE JEFFERSON: Thank</p> <p>24 you, Judge.</p> <p>25 THE MARSHAL: May it please the</p>	<p style="text-align: right;">Page 140</p> <p>1 And what I came to realize from that</p> <p>2 experience as her lawyer was that not only did she</p> <p>3 fail, but the system that was set up to help her</p> <p>4 failed her. The problems that she faced are all too</p> <p>5 well known by everyone in this room. There's a</p> <p>6 waiting list for treatment, there's inadequate</p> <p>7 funding for treatment, treatment is not long enough</p> <p>8 and does not provide for a continuum of care both</p> <p>9 before entering treatment and following treatment,</p> <p>10 and there is inadequate oversight of the treatment</p> <p>11 plan and the clientele while they go through this</p> <p>12 process.</p> <p>13 There are also inadequate wrap-around</p> <p>14 services or services to help with all the other</p> <p>15 needs that these people have after they achieve</p> <p>16 treatment. We have estimated that in this county we</p> <p>17 have -- a conservative 60 to 70 percent of the cases</p> <p>18 on the docket are due to a substance abuse or</p> <p>19 addiction issue as a significant factor that lead to</p> <p>20 the removal of the children. Many of these parents</p> <p>21 are not successful in getting their children</p> <p>22 returned to them or in getting clean and sober. If</p> <p>23 they do, they often come back into the system</p> <p>24 multiple times with relapse issues and additional</p> <p>25 children.</p>
<p style="text-align: right;">Page 139</p> <p>1 Court, the Honorable Rhonda Hurley, Associate Judge</p> <p>2 of the 200th District Court in Austin has requested</p> <p>3 five minutes for testimony.</p> <p>4 JUDGE HURLEY: Good morning,</p> <p>5 and thank you for this opportunity. My name is</p> <p>6 Rhonda Hurley. I'm an associate judge here in</p> <p>7 Travis County. I preside currently over a large</p> <p>8 portion of the CPS docket here in this county, and I</p> <p>9 want to talk to you today about drugs. Too many</p> <p>10 children are in foster care and stay in foster care</p> <p>11 too long because we are not successfully</p> <p>12 rehabilitating families.</p> <p>13 Before taking the bench I was in</p> <p>14 private practice, and I had occasion to represent a</p> <p>15 woman who'd had two children removed from her care</p> <p>16 due to a serious heroin addiction. She initially</p> <p>17 got clean and got her children returned to her only</p> <p>18 later to relapse, get arrested, and lose her</p> <p>19 children a second time. The children spent months</p> <p>20 in foster care after the second removal. I watched</p> <p>21 her struggle, as her lawyer, to work services and</p> <p>22 regain custody of her children all the while</p> <p>23 struggling with her addiction. She ultimately</p> <p>24 failed to obtain her sobriety, and she permanently</p> <p>25 lost custody of her two children.</p>	<p style="text-align: right;">Page 141</p> <p>1 We need to change our approach to</p> <p>2 these cases, and family drug treatment courts are</p> <p>3 the starting place for this shift. They are</p> <p>4 specialized courts set up to deal with parents who</p> <p>5 have had children removed due to substance abuse and</p> <p>6 addiction issues. And the court becomes part of the</p> <p>7 treatment team and has frequent interaction with</p> <p>8 these clients, offering support and accountability</p> <p>9 through the use of incentives and sanctions.</p> <p>10 These courts have proven to be</p> <p>11 successful in improving outcomes for successful</p> <p>12 treatment or frequent reunification and lowering</p> <p>13 recidivism rates. This could ultimately result in</p> <p>14 fewer children in foster care, fewer and shorter</p> <p>15 stays in foster care. One study of four sites</p> <p>16 reported that there was a 14 to 36-percent reduction</p> <p>17 in the number of days that children spent in</p> <p>18 out-of-home placements of children who were involved</p> <p>19 with drug treatment courts. And it might result in</p> <p>20 children not coming into foster care at all by</p> <p>21 avoiding the revolving door if we could prevent</p> <p>22 relapse and subsequent birth of children with -- to</p> <p>23 drug-addicted parents.</p> <p>24 Drug courts work because the judge,</p> <p>25 through his or her relationship with the client,</p>

<p style="text-align: right;">Page 142</p> <p>1 becomes an integral part of the treatment and the 2 recovery process. The implementation and 3 sustainability of these courts requires 4 multidisciplinary collaboration, judicial 5 leadership, and continuing federal funding, but has 6 the possibility of having some great results in this 7 system. 8 More time and money is needed to be 9 spent on innovative approaches to problems that 10 focus on successful rehabilitation. If we can 11 rehabilitate the parents, we can benefit the 12 children and achieve better outcomes for these 13 children. 14 Judicial leadership is absolutely 15 essential to making the needed systemic changes, and 16 this judicial commission would be a wonderful, 17 wonderful start to providing that judicial 18 leadership. Had my client had a drug court 19 available to her, she might have been successful in 20 her recovery, and she might not have lost the 21 custody of her two children. Thank you very much. 22 JUSTICE O'NEILL: Judge, we've 23 heard a lot about the drug courts and understand 24 that they're very effective nationwide. Could you 25 talk just a minute about the methamphetamine use</p>	<p style="text-align: right;">Page 144</p> <p>1 that particular drug and the environment that that 2 creates if you're -- particularly if you're talking 3 about parents who are involved with meth labs and 4 circumstances that that puts their children in. 5 CHIEF JUSTICE JEFFERSON: Any 6 other questions? Thank you very much. 7 JUDGE HURLEY: Thank you. 8 THE MARSHAL: May it please the 9 Court, Ms. Barbara Elias-Perciful, Director of Texas 10 Lawyers for Children in Dallas. She has requested 11 five minutes for her testimony. 12 MS. ELIAS-PERCIFUL: It is a 13 great honor to be here on such a historic occasion, 14 and I commend the entire Court for considering this 15 very important issue, and I strongly encourage you 16 to create the commission under discussion. 17 I'd like to focus on the effective 18 representation of children and what good legal 19 representation needs to be in a child protection 20 case. You probably all remember the case of 21 Lauren Atkinson. You may not recognize the name, 22 but she was the little girl who was locked in the 23 closet in Hutchins for six years, locked in the 24 closet of a trailer where she was tortured, starved, 25 and sexually molested by her stepfather.</p>
<p style="text-align: right;">Page 143</p> <p>1 that I understand is on the rise and presents 2 another set of problems? 3 JUDGE HURLEY: It does. And 4 that is a problem that is somewhat unique to rural 5 counties. We do not in Austin deal with a great 6 deal of methamphetamine use. However, I do see 7 methamphetamine addicts in court on a regular basis. 8 It's an extremely difficult drug to get off of. It 9 has tremendous health consequences for these people, 10 and they often end up with long-term, lifelong 11 problems and addiction issues because of 12 methamphetamine. It's a -- it is a very, very 13 difficult drug to get off of and has longtime -- 14 JUSTICE O'NEILL: These drug 15 courts -- 16 JUDGE HURLEY: -- consequences. 17 JUSTICE O'NEILL: -- could 18 specialize to deal with particular types of 19 addiction as well? 20 JUDGE HURLEY: Yes. I mean, the 21 general philosophy is that we deal with any kind of 22 addiction, and that would even include alcohol or 23 marijuana or any other kind of substance abuse 24 that's interfering with their ability to parent. 25 But methamphetamine does warrant a special look at</p>	<p style="text-align: right;">Page 145</p> <p>1 What many don't know was one line in 2 one of the newspaper articles that gave us part of 3 the reason why Lauren ended up in that closet. It 4 was through a mistake an attorney made, and as an 5 attorney that just gives me chills to know that 6 that's -- torture was at the result of an attorney's 7 mistake. 8 Lauren's mother didn't want her when 9 she was born and put her up for adoption, and the 10 attorney for the adoptive parents made an error in 11 the affidavit of relinquishment of the birth 12 mother's rights. So later under family pressure she 13 revoked that affidavit and got the child back and 14 made her a scapegoat, and that's what led to her 15 torture. 16 Effective representation in these 17 cases is absolutely critical to protect the children 18 from further harm during the legal process. You've 19 heard a lot today about the child welfare system. 20 The attorney for the child is appointed by the judge 21 when a child is placed in foster care. It's the 22 attorney for the child who is responsible for 23 getting all of the information to the judge for 24 making sure that the children's services are 25 enacted. Yes, it is the Child Protective Service</p>

<p style="text-align: right;">Page 146</p> <p>1 agency's responsibility to get those services, but 2 it's the attorney who can make that happen by going 3 to the judge and seeing that it happens. But in our 4 state there are tremendous gaps across the state in 5 the level of quality of representation of children. 6 I am currently the vice chair of the 7 State Bar Committee on Child Abuse and Neglect, and 8 I was on that committee in 1994 when we had to write 9 the piece of legislation Professor Sampson referred 10 to that requires an attorney to meet his or her 11 client if the child client is over the age of four. 12 I mean, imagine the malpractice in not even meeting 13 your client. 14 Well, I'm sad to say that in 2005 15 there had to be another piece of legislation to 16 require attorneys for children to meet with their 17 client before every hearing. The Legislature said, 18 "Okay, in 1995 we told you you have to meet with 19 your client. In 2005 we're going to tell you you do 20 have to meet with your client before every hearing. 21 You can't go in and make recommendations to a judge 22 about a person's life without having even talked to 23 your client." 24 So we do still have ongoing serious 25 problem with the legal representation of children.</p>	<p style="text-align: right;">Page 148</p> <p>1 Court, Lanis McWilliams King, Executive Director, 2 CASA of Southeast Texas of Beaumont, has requested 3 five minutes for her testimony. 4 MS. KING: Thank you, Chief 5 Justice Jefferson and all members of this Court. I 6 am so honored to be here today. I want to thank you 7 for your work, Justice O'Neill in spearheading this 8 commission. And also I want to thank Judge John 9 Specia for his leadership on the task force. I'm 10 also reminded, and I appreciated the comment 11 earlier, of Judge Jim Farris, our dear judge from 12 Jefferson County who was so important in our state 13 and even across the nation in pushing for children's 14 issues, specifically for groundbreaking for CASA 15 programs. 16 I'm thankful to our judges, Judge 17 Thorne and Judge Shelton of Jefferson County for 18 continuing those efforts and being open to new ways 19 of court support for our children and giving 20 precedent to our children. New initiatives such as 21 the family drug court have been really instrumental 22 in changing things in Jefferson County, and children 23 do have a better outcome there as the result of 24 their efforts. 25 I just wanted to share a couple of</p>
<p style="text-align: right;">Page 147</p> <p>1 A judicial commission could provide leadership in 2 training for attorneys, in getting more resources. 3 There is a tremendous pressure on attorneys with the 4 underfunding of counties not to meet with the 5 client. In some areas if attorneys do too many 6 services for the children and bill those to the 7 courts and the county can't afford to pay them, the 8 judges stop appointing those attorneys who do their 9 job well. So it's very serious issues that are 10 systemic and deep, and a judicial commission could 11 do a lot to alleviate those. 12 I think the representation of 13 children is just a key part of what we've been 14 talking about in collaboration with the other 15 stakeholders in the process, and we need to bring 16 the judicial leadership to raise the standards of 17 practice not only of attorneys, but all of the 18 players with the best-practice initiatives that have 19 also been discussed. The list is endless, and the 20 work is before you, but I praise you and commend you 21 for undertaking this important task. 22 CHIEF JUSTICE JEFFERSON: Thank 23 you very much. Are there any questions? Thank you 24 very much. 25 THE MARSHAL: May it please the</p>	<p style="text-align: right;">Page 149</p> <p>1 examples today. It was really difficult sitting 2 back there on my hands to keep from clapping and 3 trying not to scream out amen because of all the 4 points that were being made. And rather than go 5 back over those, I'd just like to give you a couple 6 of examples of cases that really bring home some of 7 the things that were pointed out. 8 One of those is the plight of our 9 children who remain in foster care for many years 10 and age out. I'll call her Sue. Teen writes to her 11 CASA, "You are the only person I have. I'm 16 years 12 old, and you're the only one I have." She had been 13 in care so many years that all of her support, 14 everyone had dropped off and the only one that 15 visited her anymore was her CASA. The only one who 16 wrote her anymore was her CASA. And she, the only 17 thing she had to look forward to was aging out and 18 no family to go to when she left care. 19 Now I'll take you to someone I'll 20 call Joe. He came and spoke to us after being aging 21 out of care for two years on his own. He spoke to 22 our board of directors, and when he came this is 23 what he had to tell us. "I was in foster care for 24 over eight years. I moved from home to home. I 25 became involved in the criminal justice system, and</p>

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1 when I finally aged out the only place for me to go
 2 after all those years was to either live under a
 3 bridge or return to my drug-infested family from
 4 whom I was removed all those years ago."
 5 With the help of community support,
 6 pro bono services from an attorney, additional help
 7 from the CASA program we were able to get him
 8 assistance, and I am happy to report today that he
 9 is enrolled in college and has a full-time job. He
 10 did have one thing in his favor. He was one of the
 11 few -- and I believe the statistics are around 40
 12 percent or less -- of the children in long-term care
 13 that actually graduated high school. So that was in
 14 his favor, but still, homelessness and hopelessness
 15 were looming before him.
 16 We know that the longer children are
 17 in foster care the less likely their chances of
 18 succeeding. Another area that was touched on today,
 19 and I really want to give you an example of that,
 20 but the most vivid example I can think of I can't
 21 give you any details because it is on appeal. But
 22 I'll just say that there does need to be cooperation
 23 and communication at all levels of the justice
 24 system, the family courts, the criminal justice
 25 system; because in the particular baby's case that

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1 I'm thinking of, a child who's now three years old,
 2 this child was victimized and received permanent
 3 injury, permanent brain damage while the offender
 4 was out on bond.
 5 It was a matter of communication.
 6 Had the Child Protective Services' new caseworker
 7 that just got the case known that there was a court
 8 order that this man was not to be with any other
 9 children, had she known that, she may have reported
 10 that he was in the home of yet another lady with
 11 another infant. And this child who -- excuse
 12 me -- who I held in my arms and looked into his
 13 sightless eyes, this child who could not respond in
 14 any way might have been saved. Forgive me.
 15 CHIEF JUSTICE JEFFERSON: Not at
 16 all, Ms. King.
 17 MS. KING: Now I want to give
 18 you a positive example of how it can work and why
 19 this commission is so important. I'm going to call
 20 this child Joe. Joe came into care at 10 months
 21 whenever his mother and her boyfriend disciplined
 22 the child by beating him, breaking his leg, and many
 23 other injuries because he was bad, because he
 24 wouldn't be still to have his diaper changed.
 25 Joe came into care, and during that

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1 time his criminal -- the criminal case against his
 2 parents was expedited so that it went forward. They
 3 went to prison, mother relinquished, and at that
 4 time he was placed in a legal rest foster care.
 5 From the time he was just few months and brought
 6 into care he stayed in the same foster home. He was
 7 not moved, he was allowed to bond with these people
 8 at those early, critical, first three years of life.
 9 And his father who was in jail, his
 10 natural father, on drug charges, eventually was
 11 released. The plan was reunification. He was
 12 unable to sustain, but back on drugs and eventually
 13 relinquished. I'm happy to say that at a year and a
 14 half that little boy was running around at our CASA
 15 carnival in July and was adopted in August.
 16 It can work. I think this commission
 17 can bring hope and help to all of our children, and
 18 I want to thank you so much for making it important,
 19 putting it on the forefront and making it your job
 20 to be involved with our children and to pass that
 21 leadership on down. Collaboration at every level to
 22 meet the challenges faced by our children is what we
 23 need, and I wholeheartedly support the creation of
 24 this commission. Thank you.
 25 CHIEF JUSTICE JEFFERSON: Thank

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1 you very much, Ms. King, and the Court thanks you
 2 for your dedication to your work very much. Thank
 3 you. Ready for our next witness.
 4 THE MARSHAL: May it please the
 5 Court, Dr. Connie Almeida, Court Team Leader for the
 6 Fort Bend County Court Team for Maltreated Infants
 7 and Toddlers in Richmond has requested five minutes
 8 for testimony.
 9 DR. ALMEIDA: Good afternoon.
 10 I'm delighted to have the opportunity to speak with
 11 you briefly about the work we're doing in Fort Bend
 12 County under the judicial leadership of District
 13 Court Judge Ronald Pope and to express our support
 14 for the establishment of this commission to
 15 strengthen child protection courts.
 16 The Fort Bend Court Team, the Fort
 17 Bend County Court Team for Maltreated Infants and
 18 Toddlers is spearheaded by Zero to Three, which is a
 19 national organization for infants and toddlers in
 20 Washington, D.C. and is led by District Court
 21 Judge Pope, who collaborates with a child
 22 development and mental health specialist, in this
 23 case myself, to create a team of child welfare,
 24 health professionals, child advocates, attorneys,
 25 and community leaders. Together we strive to

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1 provide multidisciplinary services for abused and
 2 neglected infants and their families. Our goal is
 3 to prevent the recurrence -- I'm sorry?
 4 CHIEF JUSTICE JEFFERSON: Could
 5 you speak a little louder?
 6 DR. ALMEIDA: Oh, I apologize.
 7 Our goal -- I never get that asked of me. Our goal
 8 is to prevent the recurrence of abuse and to improve
 9 the outcomes for infants and toddlers. As we know,
 10 the Pew Commission's report on children in foster
 11 care indicated that half a million children each
 12 year are in foster care. Those most at risk are
 13 babies and toddlers. In fact, they are the
 14 fastest-growing population in foster care. They
 15 represent one-third of the children coming into
 16 foster care, and they are six times more likely to
 17 have developmental delays which, if untreated, will
 18 compromise their ability to have healthy lives.
 19 Contrary to the common belief that
 20 babies are too young to suffer lasting harm,
 21 research shows this is simply not true. We know
 22 that abuse and neglect have great impact on a young
 23 child's social, emotional, and intellectual
 24 development. Babies and toddlers who are abused
 25 have more behavior problems, lower IQs, less

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1 empathy, more problems in school, and are 59 percent
 2 more likely to be arrested as a juvenile.
 3 This is a tragedy for these children,
 4 and it's a tremendous cost for us as a society. The
 5 good news is that there's hope and we know how to
 6 help. Research tells us that by intervening early
 7 we can change the lives of these children, because
 8 the developing brain has the ability, the ability to
 9 recover and to compensate from early deprivation and
 10 early abuse.
 11 I heard someone say that by our
 12 interventions we can make the difference between
 13 toxic levels of stress and tolerable levels of
 14 stress in these children's lives. Where do we
 15 begin? We can start by adopting the Pew
 16 Commission's recommendation to invest in training
 17 and support of judges and core personnel who are
 18 responsible for ensuring the well being of children
 19 in their care. This is a sound place to start,
 20 because unquestionably, judges can be powerful
 21 agents of change.
 22 This is the cornerstone of the Zero
 23 to Three court team's project. In Fort Bend County
 24 we are now completing the second year of the
 25 project, and we have monitored nearly 50 infants and

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1 toddlers along with their siblings and families. We
 2 have made significant strides, first of all, in
 3 minimizing the number of out-of-home placements. We
 4 know that multiple placements are detrimental to a
 5 child. Therefore, we strive to make the first
 6 out-of-home placement the last. Most of our
 7 children are placed in a relative's care, and 75
 8 percent of our children remain in one out-of-home
 9 placement.
 10 We've also increased the number of
 11 early-intervention services by coordinating services
 12 with Part C, our early childhood intervention
 13 programs. We've increased parent house visits.
 14 Very young children need to see their parents
 15 multiple times a week to develop a trusting
 16 relationship for the reunification process.
 17 We still face many challenges,
 18 including a high percentage of families with
 19 substance abuse, mental illness, and the scarcity of
 20 services. 90 percent, I would say probably over 90
 21 percent of our cases come into care because of
 22 parental substance abuse.
 23 Transportation problems are
 24 significant in the intergenerational cycle of
 25 poverty and violence. However, through our monthly

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1 court hearings we help prevent children from falling
 2 through the cracks and ensure that the services they
 3 are receiving are addressing identified needs.
 4 According to Judge Pope, the effective
 5 representation of children is critical to improving
 6 their well being.
 7 The result of our training and
 8 education efforts can be seen in our monthly
 9 hearings when attorneys use the information they
 10 have acquired to advocate for children by requesting
 11 increased visits to facilitate the bonding between a
 12 child and a parent or an assessment of the
 13 parent/child relationship. The entire court team
 14 works together to assist in the delivery of needed
 15 services to both children and their families. We've
 16 also prepared, presented -- there's a DVD that Zero
 17 to Three has produced, "Helping Babies from the
 18 Bench, Using the Signs of Early Childhood
 19 Development in the Court," and we'd be more than
 20 happy to make this available. It's been
 21 disseminated to several judges throughout the
 22 country.
 23 In conclusion, it's easy to
 24 become overwhelmed by the complexity of the foster
 25 care problem, to be disillusioned by the

<p style="text-align: right;">Page 158</p> <p>1 intergenerational cycles of abuse and violence. We 2 have research that tells us we can change this. We 3 can make a difference in the child's life by 4 providing safe, consistent, nurturing environments 5 along with appropriate early interventions. Thank 6 you.</p> <p>7 CHIEF JUSTICE JEFFERSON: Thank 8 you very much. Are there any questions? Thank you, 9 Doctor.</p> <p>10 DR. ALMEIDA: Thank you.</p> <p>11 CHIEF JUSTICE JEFFERSON: The 12 court will now take a brief 10-minute recess and be 13 back here around 10 till 1:00.</p> <p>14 (At this time the proceedings 15 recessed.)</p> <p>16 CHIEF JUSTICE JEFFERSON: There 17 are some members of this Court who have prior 18 engagements, so around the hour of 1:30 you'll see 19 some of us leave if we're not through with the 20 testimony, but the rest of us will remain and we 21 will apprise our colleagues of what transpired. 22 We're ready for the next witness.</p> <p>23 THE MARSHAL: May it please the 24 Court, Ms. Constance Barker, Director of Government 25 Affairs, DePelchin Children's Center in Houston, has</p>	<p style="text-align: right;">Page 160</p> <p>1 I've gotten it down to a sentence, 2 and I think I can summarize, which is we strongly 3 support the commission. We think it's a wonderful 4 idea, and if you want it to succeed, we really 5 strongly believe you need to involve the caregivers. 6 And by "the caregivers" I mean the charities like 7 us. They're called CPAs, or child placing agencies, 8 but they're community and faith-based charities who 9 administer, with the foster care system under 10 contract with the department, the foster families 11 themselves and the kinship caregivers.</p> <p>12 We really believe that the child 13 placing agencies and the foster families and maybe 14 the kin caregivers should be on the commission 15 itself and either expand the commission or replace 16 some of the public members with those 17 representatives.</p> <p>18 What we do is, under contract with 19 the department we recruit the foster families, we 20 train them, we supervise them, we make sure that the 21 things are going well, and at least in DePelchin's 22 case, we have clinicians who are in the homes giving 23 home-based therapy, because many of our staff are 24 licensed clinicians. And so we do Medicaid contract 25 and home-based therapy with the children in our care</p>
<p style="text-align: right;">Page 159</p> <p>1 requested five minutes for testimony.</p> <p>2 MS. BARKER: Good afternoon, 3 Honorable Justices. First of all, thank you very 4 much, Chief Justice Jefferson and Justice O'Neill, 5 for arranging this somewhat unprecedented, I think, 6 hearing on this important matter. I have submitted 7 written comments and also have given to the Court a 8 booklet that was put together pro bono by some folks 9 in Houston who had some wonderful before-and-after 10 stories about the children who have been in our 11 system.</p> <p>12 For those of you who don't know who 13 we are, we're one of the largest foster care 14 agencies in the state and served the Houston metro 15 area. That's a quarter of the state, so that's a 16 lot.</p> <p>17 I would like to note to you today 18 I've heard a theme, which is, the whole theme today 19 is how do we do a better job for the children? And 20 that's what we're all here for, and I wanted to let 21 you know that I talked to a colleague recently who 22 used to work for Lieutenant Governor Hobby, and he 23 told her that if you can't get your position down to 24 a bumper sticker, you haven't thought it through 25 enough.</p>	<p style="text-align: right;">Page 161</p> <p>1 too, because we have very, very few children who 2 don't need major therapy.</p> <p>3 We also then place children for 4 adoption from the CPS system. We got about a 5 hundred kids out of the system last year through 6 adoption, and this year we're on track for that as 7 well. So because of all these things we really 8 think it's important to the deliberations of the 9 commission to have the folks on that commission who 10 are caring for the children.</p> <p>11 Additionally, the Legislature made a 12 couple of changes in our functions in the last year 13 so that we now will be receiving notices of all the 14 court hearings, and the foster parents will be 15 entitled to testify and present evidence at the 16 hearings; and also there will be some cases, five 17 percent of the cases will be contracted out in case 18 management and part of that will be that we will be 19 working with the department in court as a case 20 manager to help the children as well.</p> <p>21 So for all of those reasons, we think 22 it would be very, very valuable to the commission's 23 work if there are representatives from those 24 agencies as part of the commission. I will be happy 25 to answer any questions.</p>

<p style="text-align: right;">Page 162</p> <p>1 JUSTICE O'NEILL: I'd be curious 2 about how you're funded. What percentage are you 3 funded by the state and what percentage is probably 4 raised? 5 MS. BARKER: Our total funding, 6 because we do much more than foster care, is about 7 60 percent state and federal grants and contracts, 8 40 percent charitable money. In the foster care I 9 think it's 80 or 90 percent is our contract money, 10 and the rest is charitable donations. But like our 11 prevention services, our mental health services we 12 have to subsidize much more heavily. So, and we are 13 the old charity in Houston, so we do have a lot of 14 wonderful donations. Even a football came in our 15 honor. 16 CHIEF JUSTICE JEFFERSON: Are 17 there any other questions? Thank you very much. 18 MS. BARKER: Thank you very 19 much, Chief Justice. 20 THE MARSHAL: May it please the 21 Court, Ms. Trista Miller, Youth Specialist of Child 22 Protective Services, Texas Department of Family and 23 Protective Services in Austin has requested five 24 minutes for testimony. 25 MS. MILLER: Hello everybody.</p>	<p style="text-align: right;">Page 164</p> <p>1 really know anything about anything except for what 2 he'd seen for the last six months; and knowing, 3 didn't really realize it then, but knowing now that 4 that person had the ability to make decisions that 5 affected my entire life, or could have, was 6 something that really stuck out to me. 7 And there were other little things, 8 like when I became a PMC, when the State got 9 permanent managing conservatorship of me, nobody 10 really had sat down and explained to me that I would 11 no longer have an attorney ad litem, I would no 12 longer have somebody there that I would be meeting 13 with before I came to court. And even when I had 14 one I had only met with them one or two, maybe three 15 times. I didn't really know who they were. Of all 16 the names that I can remember, I can remember all my 17 foster parents' names, I can remember all my 18 caseworkers' names. Can't remember any of my 19 attorneys' names. I don't even honestly know who 20 they were. 21 And I just actually found out about 22 two months ago why I no longer had an attorney. 23 They -- when children become under the permanent 24 managing conservatorship in the state they no longer 25 have an attorney ad litem. The State is considered</p>
<p style="text-align: right;">Page 163</p> <p>1 Thank you for giving me the opportunity to be here 2 today. A couple weeks ago when I started talking 3 with the very nice ladies at the Clerk's office 4 about what we were going to be doing today we talked 5 a little bit about the changes and the commission 6 that we wanted to try to bring about, and it really 7 got me thinking about the time that I had spent in 8 care -- and I actually spent six years in CPS care 9 from the time I was 12, and I aged out when I was 10 18 -- and it really got me to thinking about some of 11 the things that I had went through in care that 12 maybe this commission that we're trying to get 13 together would be able to help or address. 14 And a lot of little things came up, a 15 lot of little things I started thinking about. 16 Like, one time I went to court, and I was lucky 17 enough for the majority of my time in foster care to 18 have Honorable Scott McCown as my judge, and he was 19 very, very involved and knew my mom, knew me, knew 20 my history, could go back to day one. Knew 21 everything. 22 But I remember a couple of times 23 coming to court and there would be a judge there for 24 one reason or another filled in for the day, just 25 now picking up my file for the first time, didn't</p>	<p style="text-align: right;">Page 165</p> <p>1 their guardian. I never knew that. I just learned 2 that at 22, so it was kind of neat. Just things 3 like that, just, you know, not being able to talk to 4 my caseworker as often as I would have liked to. 5 Real little things that -- I was 6 fortunate enough to have a very loving family of 7 symbolic relatives who stepped up to the plate and 8 took care of me, but not everybody has that. And I 9 think that, you know, when I look at those things, 10 those aren't things that I felt, that I ever felt 11 were done maliciously, but when we have thousands 12 and thousands of youth coming through the system and 13 when we have caseworkers with multiple times over 14 the loads that they're supposed to have, it's never 15 intentional. 16 But it becomes a work overload, and 17 it's easy, I think, for us to forget that the real 18 little things is what can mean the world to any 19 youth in care. It's the little things, letting you 20 know what's going on, you know, things like that. 21 And I think that this commission, if we could bring 22 it together and we could get advocates from 23 different -- you know, CASA, the Supreme Court, you 24 know, as many people as possible, it's kind of like 25 a third party not looking in, but being active and</p>

<p style="text-align: right;">Page 166</p> <p>1 being invested in establishing the best practices 2 and things like that. 3 I think it could help remind all of 4 us, caseworker, judges, attorneys, that the little 5 things do count, and the little things are what can 6 shape the lives of our youth. And I know that, you 7 know, with the little things that didn't happen, 8 there were the little things that did. The times 9 that my caseworker did call me, the times that, you 10 know, she remembered my birthday and called me up on 11 her day off on my birthday to tell me happy 12 birthday. You know, the personal things I think 13 also really helped me be successful. 14 And I think having a commission to 15 establish those best practices, to establish just 16 methods of working with these youth in care can 17 really bring an outside perspective where you have a 18 load of overworked people, stressed-out, overworked, 19 underpaid, and it really would bring an outside 20 perspective to allow them to remember that these are 21 youth. Even when times are hard, even when you're 22 stressed out, even when you just worked almost 24 23 hours, I think having an outside committee would 24 really help us remember that these are all youth and 25 everything that we do affects us every day.</p>	<p style="text-align: right;">Page 168</p> <p>1 MS. MILLER: Yes, sir? 2 JUSTICE MEDINA: -- I'm very, 3 very impressed with your presentation here today. 4 You're very articulate. 5 MS. MILLER: Thank you. 6 JUSTICE MEDINA: You have great 7 poise, and we hear your plea. 8 MS. MILLER: Awesome. Thank you 9 guys, and thank you for the opportunity to come and 10 speak. 11 JUSTICE WILLET: Do you have 12 any idea -- 13 MS. MILLER: Yes, sir? 14 JUSTICE WILLET: -- maybe 15 Ms. James knows, of workers within the CPS, how many 16 of them were themselves, once upon a time, within 17 the CPS system? 18 MS. MILLER: I honestly only 19 know of one. I'm sure that there are more of them 20 out there, but I don't have the numbers. No, sir. 21 I don't know. 22 JUSTICE WILLET: Okay. Thank 23 you. 24 CHIEF JUSTICE JEFFERSON: Thank 25 you very much for your impressive testimony.</p>
<p style="text-align: right;">Page 167</p> <p>1 And that's why I would be for and I 2 would strongly advocate for and I would hope that we 3 would be able to put together a Commission for 4 Children, Youth and Families like the one that has 5 been discussed and brought about today. 6 JUSTICE O'NEILL: Trista, let me 7 ask you, when you aged out of foster care did you 8 remain with the family you were with? 9 MS. MILLER: When I came into 10 care actually some very close friends of the family, 11 they're my symbolic relatives, my grandparents, even 12 today, they went through a lot of steps where 13 symbolic relatives didn't have rights at the time 14 when I came into care. They took several steps to 15 actually become foster parents. And I went with 16 them, had some behavioral issues, so I got to come 17 back and do some time in a residential treatment 18 center. 19 And they stuck with me all the way, 20 and about six months before I turned 18 I was 21 actually allowed to go back and live with them. And 22 I see them pretty much -- well, once a month now, 23 they just moved to Louisiana, but I see them very, 24 very often. Yes, ma'am. 25 JUSTICE MEDINA: Ms. Miller --</p>	<p style="text-align: right;">Page 169</p> <p>1 THE MARSHAL: May it please the 2 Court, Ms. Susan Hopkins Carven, Executive Director 3 of Texans Care for Children in Austin has requested 4 five minutes for testimony. 5 MS. CRAVEN: Thank you so much, 6 Chief Justice Jefferson and the members of this 7 Court. It has been a very exciting day for me and 8 for many of the people in this room to hear the 9 support that we have heard for a Judicial Commission 10 on Children, Youth, and Families. Texans Care for 11 Children is a nonprofit, a 501(c)(3) nonprofit that 12 advocates for the needs of children in six areas 13 that we consider connected: Child poverty, child 14 health, child mental health, early care and 15 education, child welfare, and juvenile justice. 16 And you heard some testimony today 17 about child care, the quality of child care. You 18 heard some testimony today about poverty and the 19 effect on families living in poverty that end up 20 within this system. So I think by creating a 21 commission on children and youth it will be an 22 opportunity to look at all these areas and how they 23 interconnect and how we can improve the lives of 24 children that happen to have to come into our 25 system.</p>

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1 We need a high-level state body to
 2 bring attention to the needs of children in the
 3 child welfare system. We need accountability. We
 4 need your influence to change things for children
 5 and to cause the best outcomes for children through
 6 your study and through your evaluation of best
 7 practices and through your work with other states to
 8 create the best system in Texas for our children.
 9 The Pew Commission on Children in Foster Care made
 10 those very thoughtful recommendations, and it sounds
 11 to me like many of those have been embraced here.
 12 I'd like to mention a few that, just
 13 today, that Texans Care is extremely supportive of.
 14 One is the kinship care area, that judges need
 15 alternatives to just placement. We are starting to
 16 move towards better kinship care, allowing children
 17 to maintain that family and community connections,
 18 maintain their ethnic and cultural identifies and
 19 reduce that trauma of loss of their family and
 20 attachment issues.
 21 When judges are aware of the benefits
 22 of kinship care, which is what I'm sure one of these
 23 tasks would be, they consistently ask, Have all
 24 kinship options been exhausted? And they keep going
 25 down that trail until they often find a family and

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1 can make a better placement decision.
 2 The training that has been going on
 3 in the state would even be enhanced by this group
 4 and would equip judges with the tools and awareness
 5 to view placement decisions through the lenses of
 6 keeping families together. If the parent can't take
 7 care of the child at that moment in time, at least
 8 an aunt, a cousin, a relative that has connection to
 9 that child could.
 10 We support the specialized dependency
 11 courts and expansion of those across the state. I
 12 think the cluster courts have proved to be very
 13 successful and that we would hope that we would
 14 expand that kind of specialized dependency court
 15 across the state.
 16 Another recommendation of the Pew was
 17 a stakeholder collaboration, that stakeholders need
 18 to come together, work together around these
 19 children's issues. And that's what Connie Almeida's
 20 doing with Judge Pope, is one of those, bringing the
 21 stakeholders together to make the best decisions for
 22 those children. So supporting stakeholder
 23 collaboration is, I think, vital to successful child
 24 placement and successful outcomes for these
 25 children. When a court's making a decision about a

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1 child's well being, it's critical that the judge
 2 take into account that whole child, and that's where
 3 bringing various groups in, various stakeholders in
 4 would have an effect.
 5 One of the areas several stakeholders
 6 have talked about recently, about a checklist for
 7 judges for children whose parents are incarcerated,
 8 and that's being developed now, that there's certain
 9 questions that ought to go through a judge's mind
 10 about children whose parents are incarcerated. And
 11 along that line is a bill of rights for children of
 12 incarcerated parents. Texans Care for Children a
 13 number of years ago was able to access through the
 14 New York courts a checklist for infants and
 15 toddlers, and we distributed that to CASA and to
 16 many judges across the state. And it was a one-page
 17 that could go in the bench book that would say, Has
 18 this child had a well baby check? Has this child
 19 had its immunizations? Does this child have a
 20 medical home? What -- who is this child with, and
 21 has he made attachments to those people that he's,
 22 that the child's with? Particularly in infants and
 23 toddlers.
 24 We are extremely supportive, again,
 25 of the family group decision making, bringing

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1 families in, and I think that's showed that it's
 2 working well and that we think that that could be
 3 expanded as well.
 4 And just lastly I'd like to say to
 5 you that having this permanent high-level entity
 6 with the independent character that the judicial
 7 branch has can really help in all areas of the child
 8 welfare issues and would be a great step for
 9 accountability in the state and for visibility.
 10 Often these children are invisible to their own
 11 communities and to much of the leadership at the
 12 state level, and we think that your involvement and
 13 the involvement of a commission would really bring
 14 focus on these children and the needs of these
 15 children. These are some of our future citizens in
 16 Texas. We need to do a good and proper job for
 17 them.
 18 CHIEF JUSTICE JEFFERSON: Thank
 19 you, Ms. Craven. Are there any questions? Thank
 20 you for your testimony.
 21 MS. CRAVEN: Thank you very
 22 much.
 23 THE MARSHAL: May it please the
 24 Court, the Honorable Carmen Rivera-Worley, Judge of
 25 the 16th District Court in Denton has requested five

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1 minutes for testimony.
 2 (Brief off-camera comment to the
 3 Marshal.)
 4 THE MARSHAL: May it please the
 5 court, Mr. Richard Lavallo, Senior Attorney of
 6 Advocacy, Incorporated in Austin has requested five
 7 minutes for testimony.
 8 MR. LAVALLO: I appreciate the
 9 opportunity to testify today. I'm testifying on
 10 behalf of Advocacy, Incorporated. Advocacy is the
 11 protection and advocacy system for Texans with
 12 disabilities. I personally represent foster
 13 children with disabilities throughout the state of
 14 Texas. I've been doing it for about 25 years.
 15 Most of my clients are foster
 16 children who are under the permanent conservatorship
 17 of the department, and frequently I get calls from
 18 judges around the state asking me to represent kids
 19 when they're having problems trying to figure out
 20 where the kids should be placed or having problems
 21 in schools or what have you. These kids, the kids
 22 that are in the permanent conservatorship of the
 23 department, I've -- my personal feeling is that most
 24 of them are languishing in foster care. Very often
 25 their needs are not being met in the foster care

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1 system.
 2 Section 107.012 of the Family Code
 3 mandates that foster kids or kids coming into care
 4 be appointed an attorney immediately upon their
 5 removal from their family and that the attorneys
 6 represent the kids until permanency, until they're
 7 returned home or until placement with a relative or
 8 until there's termination.
 9 However, Section 107.016 makes the
 10 continued representation of an attorney to represent
 11 a child in foster care after termination permissive.
 12 So it's up to the court. It's not uncommon, and I
 13 think this young lady had just testified a few
 14 minutes ago, that it's not uncommon for the court to
 15 remove or dismiss the attorney ad litem
 16 representing the kids post-termination. And the
 17 problem is and the reality is, it's money, that the
 18 counties do not want to pay for attorneys to
 19 continue to represent kids in foster care.
 20 I'd like to talk -- tell you a story
 21 about three boys that I represented, and these are
 22 three boys who had been in foster care for over four
 23 years. The mother's rights were terminated, and no
 24 one would adopt them. These were boys, they were
 25 African American, they had pretty challenging

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1 behavior. The State did an exhaustive job of trying
 2 to find an adoptive placement for the kids. They
 3 went nationwide. And once they got the records for
 4 my clients, you know, prospective adoptive families,
 5 they would look at them and say, "There's no way
 6 we're going to adopt these kids," because of their
 7 behavior.
 8 The only person who was willing to
 9 adopt three boys and keep them together was their
 10 foster mother. However, the department would not
 11 approve the placement because they said that the
 12 foster mother could not afford to raise the boys,
 13 even though she'd been raising the kids with the
 14 foster care payments; and what happened was that the
 15 adoption subsidies that the boys would have received
 16 from the State was about half the amount that the
 17 State would receive in -- or that the foster parents
 18 would receive through foster care payments.
 19 And so what I -- I was appointed by
 20 Judge Hurley, who testified earlier, and I was
 21 appointed as an attorney ad litem to try -- everyone
 22 wanted this adoption finalized, the CPS caseworkers,
 23 everyone. I filed a counterclaim in the case -- it
 24 was in the CPS case -- and I tried to assert that
 25 the kids were entitled to a subsidy that was equal

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1 to the amount that the foster mother made. The
 2 State of Texas would save half the amount that it
 3 was paying out to a child placement agency, we would
 4 avoid having court time, wouldn't need, you know,
 5 all the caseworkers or whatever involved in the
 6 case.
 7 And on appeal for the first time the
 8 Attorney General's Office that was representing the
 9 department filed an objection to my representing my
 10 client, and they said that the court lost the
 11 jurisdiction to appoint me as an attorney ad litem
 12 to represent my clients. And the reason was, is
 13 that the court did not appoint me four years ago,
 14 and so they lost the authority to do it.
 15 Even though on appeal the Austin
 16 Court of Appeals did not address this issue, I think
 17 you-all need to. I think you need to make it real
 18 clear that any point a judge can appoint an attorney
 19 to represent a child. The need -- the legal needs
 20 of foster kids that are under the permanent
 21 conservatorship of the department are totally
 22 different from the legal needs of the kids that
 23 are initially removed. You have CASA volunteers,
 24 you have guardian ad litem, you have attorney
 25 ad litem, you have parents who are represented by

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1 lawyers. Everyone is stumbling over each attorney
 2 to ensure the kids are protected.
 3 The problem is that when kids end up
 4 in permanent conservatorship people disappear. And
 5 the problems that the kids face in foster care
 6 you've heard about. We have problems with children
 7 being over medicated with psychotropic drugs. We
 8 have problems in displaced -- disruption of
 9 placement. I represent kids that have 15, 20
 10 placements. We have kids that are placed in and out
 11 of residential treatment centers. We have kids who
 12 at the age of 11 are told they're never going to be
 13 able to live with a family.
 14 We have problems at school. Schools
 15 do not want our kids. Kids that are in foster care
 16 that have disabilities create challenges in most
 17 communities, and they're often rejected or
 18 disciplined or, you know, the school goes after
 19 them. And the other problem we have which I think
 20 is the disgrace of the system is kids aging out of
 21 foster care. Ever day I hear of cases of kids just
 22 leaving the system with nowhere to go.
 23 And so I personally believe, and
 24 there's been some discussion today about this crisis
 25 in the current foster care system, with kids

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1 sleeping in caseworkers' offices. There's been
 2 media attention about that, and I'm willing to bet
 3 if you went back and looked at every one of those
 4 cases, the kids sleeping in caseworkers, almost all
 5 of them were not represented by an attorney.
 6 And I strongly believe that if these
 7 kids had counsel that were competent to represent
 8 their needs, we would not have a problem with
 9 children sleeping in caseworkers' offices. The
 10 lawyers would come to court and they would -- if it
 11 happened to one of my clients, I'd file a motion in
 12 three days and tell the judge, Do you want one of
 13 your kids sleeping in the caseworker's office? But
 14 these kids are not represented.
 15 And so I ask this Court if you create
 16 the commission, on the top of your agenda you need
 17 to do two things. First of all, you need to examine
 18 the need to appoint counsel to represent children
 19 that are under the permanent conservatorship of the
 20 department; and secondly, you've got to deal with
 21 training. You need to look at what skills do these
 22 lawyers need in order to effectively represent the
 23 kids based on their needs post-terminations. I
 24 appreciate the opportunity, and thank you very much.
 25 **CHIEF JUSTICE JEFFERSON:** Thank

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1 you, Mr. Lavallo, and are there any questions?
 2 **JUSTICE O'NEILL:** Mr. Lavallo, I
 3 have to thank you for all that you do for Access to
 4 Justice as well. He's been a champion in the field
 5 for a long time in a lot of areas, and --
 6 **MR. LAVALLO:** Thank you very
 7 much.
 8 **JUSTICE O'NEILL:** -- thank you
 9 for your service.
 10 **COURT MARSHAL:** May it please
 11 the Court, Mr. Roy Block, President of the Texas
 12 Foster Families Association in San Antonio has
 13 requested five minutes for testimony.
 14 **MR. BLOCK:** Mr. Chief Justice,
 15 members of the Court, thank you for this opportunity
 16 to speak before you. I am Roy Block, the President
 17 of Texas Foster Families Association. TFFA is a
 18 34-year-old organization that advocates for the
 19 8,000 foster families in Texas. I came here today
 20 to endorse the commission, the creation of this
 21 commission, but when I look through the
 22 recommendation inclusion I did not see anything for
 23 foster parents. I would strongly recommend that you
 24 include a tenured foster parent, the people that
 25 knew the children the best, the people that spend

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1 24/7 with these children.
 2 We've heard earlier about the
 3 information that's given to a court, and all too
 4 often a judge only has 15 minutes to read a file.
 5 No one knows the child better than the foster
 6 parents. The best source of information that, quite
 7 frankly, is frequently overlooked. I've been in
 8 court where a caseworker had to look at file to know
 9 a child's name because they've maybe been handed
 10 that file that morning and they may have 40, 50 or
 11 more cases.
 12 That foster parents wouldn't have to
 13 do that. The foster parent could tell you what that
 14 child had for breakfast, they can tell you that that
 15 child did last night. These are the people that are
 16 with that child when they experience that trauma of
 17 being separated, when they experience the night
 18 terrors, when they experience a lot of the negative
 19 behaviors that are children who experience because
 20 of what they've been subjected to. So I would
 21 strongly recommend the inclusion of a foster parent.
 22 I'd also like to see this Court take
 23 action to see that all foster parents are recognized
 24 in court. I am fortunate that I come from San
 25 Antonio where we have a very good court system, but

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1 that's not true throughout the state. I was
 2 speaking to Judge Specia earlier, and he told me he
 3 was going to be listening to this on the web. I've
 4 got to tell you what a wonderful court he has, had.
 5 But that's true, and it's easy to say because it's
 6 true.

7 I have a friend down in the Valley
 8 who told me horrendous stories of the court system.
 9 He had a child placed in San Antonio. He came up to
 10 court and he couldn't believe it, he thought he was
 11 in heaven. The difference of the courts is
 12 remarkable throughout the state. We need to have it
 13 where foster parents are utilized as a resource for
 14 the best information so that a judge can make the
 15 best decision for the future of that child.

16 I'd like to tell you about a couple
 17 of kids real quickly. One of them was a boy from
 18 San Antonio, Eric, who came into the system at age
 19 14. Eric was a very troubled young man. I didn't
 20 become acquainted with Eric until he was 16. In
 21 fact, it was right after Eric had been told by the
 22 court that he could go to live with an aunt, and
 23 Eric made the decision not to. He made the decision
 24 to remain in foster care. And I said, "Why, Eric?"
 25 He said, "Because if I was back there, I'd be back

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1 where I was, and I've turned the corner." I think
 2 that was in large part through the intervention of a
 3 good, solid family that Eric had been with.

4 Eric took me on a tour of his old
 5 neighborhood. He showed me where he used to live,
 6 he showed me the streets he used to run, he even
 7 showed me the store he used to steal from. Well,
 8 that was two years ago. Since then Eric has
 9 graduated from high school, the first in his family
 10 to ever do so. Eric was college material, but Eric
 11 made the decision to join the U.S. Army. Right now
 12 as we speak he's in boot camp, and he might be
 13 rethinking that decision. But Eric will do well,
 14 I'm confident.

15 Sky, a young lady who was placed in
 16 my home at age 11. Most horribly-abused child that
 17 I had ever experienced, full of rage and anger, as
 18 many of our children are. Sky, who was a
 19 low-achiever, she'd never spent a full year in the
 20 same school. She was a caregiver to her three
 21 younger siblings, which is not unusual. In the
 22 three years that Sky was in our home Sky went from a
 23 C-D student to the A-B honor role in large part
 24 because we require children to read. Well, at first
 25 you would have thought we were beating that child to

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1 get her to read. By the time Sky left our home you
 2 couldn't pry a book out of her hands.

3 There's more to that story, as
 4 Paul Harvey would say. Sky was adopted at age 14
 5 with her three younger siblings. Sky graduated from
 6 high school, National Honor Society, is now a member
 7 of the U.S. Air Force. Unfortunately, this is not
 8 true of all of our children.

9 And we've heard testimony earlier,
 10 and I will reinforce, we need to do more for our
 11 kids. You know, statistically, a child or a young
 12 person is not fully weaned from their family until
 13 they're age 27, and these are children that are
 14 raised in a mom-and-dad environment with the
 15 structure and nurturing and the encouragement that
 16 they need. How can we expect and do less for our
 17 children who grow up and age out of care?

18 Fortunately, many families do
 19 continue to support those young people, but it's not
 20 always true. We have some good success, but it's
 21 not enough. Thank you.

22 CHIEF JUSTICE JEFFERSON: Thank
 23 you. We should never forget the successes at the
 24 same time that we hear of the disasters out there as
 25 well. So --

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1 MR. BLOCK: Well, we all need to
 2 hear those, sir, because otherwise we might get
 3 discouraged.

4 CHIEF JUSTICE JEFFERSON: That's
 5 right.

6 MR. BLOCK: But if you have even
 7 one, it's like the little boy throwing the starfish
 8 back in the ocean. It meant a lot to that one; and
 9 while one is not enough, one is something.

10 CHIEF JUSTICE JEFFERSON: That's
 11 right.

12 MR. BLOCK: One at a time.

13 CHIEF JUSTICE JEFFERSON: Thanks
 14 for your testimony.

15 MR. BLOCK: Yes, sir.

16 THE MARSHAL: May it please the
 17 Court, Ms. Barbara Richardson, Executive Director of
 18 Amarillo Area CASA has requested five minutes for
 19 testimony.

20 MS. RICHARDSON: Thank you very
 21 much for having me today, Chief Justice and
 22 Justices. Justice O'Neill, thank you so much for
 23 spearheading this commission. I'm very excited at
 24 the possibility of what this commission can do for
 25 our children, and I'm excited about your leadership

<p style="text-align: right;">Page 186</p> <p>1 strengthening our child protection courts. 2 My name is Barbara Richardson from 3 Amarillo, Texas. Our CASA program covers seven 4 counties in the Texas Panhandle. I'm also the 5 regional representative for Texas CASA of the 6 Western Region, and I cover areas from Dalhart to 7 El Paso, and I hear the same sentiments when we meet 8 at our regional meetings, the concern about the 9 improvement of collaboration between all entities 10 working with child abuse cases. 11 We have a case that we are currently 12 working on where collaboration was not in the best 13 interest of the children. Let me rephrase that. 14 Collaboration didn't happen, and because of that 15 these children were returned to a home of a sexual 16 perpetrator. My CASA volunteer had tried to share 17 the information that she had with all individuals 18 involved, and no one would listen. 19 In Amarillo we are friends of the 20 court. We are not guardian ad litem, and sometimes 21 people don't want to listen to us. Also in our 22 area, per one thousand cases of child abuse 26 23 percent are abused. The state average per one 24 thousand it's 10 percent children are abused and 25 neglected. In Potter County it's 26 percent. We</p>	<p style="text-align: right;">Page 188</p> <p>1 fact that's when the collaboration came together. 2 They removed the children and now they are in a safe 3 foster home. 4 I want to encourage this commission 5 to continue to fight for collaboration for these, 6 all these entities so these children can be safe. 7 Excuse me. Thank you so much for giving me this 8 opportunity to come and visit with you today. All 9 parts of this system needs to work together. I 10 think we have all the entities there, they just need 11 to get together and share all their information. 12 Thank you very much. 13 CHIEF JUSTICE JEFFERSON: Thank 14 you very much. 15 THE MARSHAL: May it please the 16 Court, Ms. Irene Clements, Vice President for 17 Advocacy, Child and Family Services, Lutheran Social 18 Services of the South in Austin has requested five 19 minutes for testimony. 20 MS. CLEMENTS: Good afternoon. 21 I'm Irene Clements. Professionally I'm an advocate 22 for children and families, but I was a foster parent 23 for 27 years and adopted four children from the 24 system. I've served both on state and national 25 foster parent association boards of directors.</p>
<p style="text-align: right;">Page 187</p> <p>1 are assigned some of the most difficult cases 2 because of so many cases in our area. 3 In this particular case no one would 4 listen to my volunteer. We repeatedly tried to 5 share our information. The child was returned home 6 to the mom, who is a registered sex offender. My 7 volunteer knew that the parents -- that the mother 8 had been seeing the biological father who was a 9 sexual perpetrator. She was not to have contact 10 with him. We shared that information. When the two 11 children were returned home my volunteer went and 12 camped out at their house, at the residence of the 13 mother. 14 At 9:45 one evening she saw that the 15 mother came home with the two children, and the 16 father was present who's also a registered sex 17 offender. She came to our office the next morning 18 and handed me her badge and said, "I can't do this 19 anymore." She said, "I have failed these children. 20 I have told everyone what I've seen, and I'm not 21 doing any good, and you need to appoint someone 22 else." 23 At that point our office called 24 Statewide Intake. We reported all the evidence that 25 she had to Statewide, we called CPS, and after the</p>	<p style="text-align: right;">Page 189</p> <p>1 The system has come a long way. Back 2 in 1974 when we got our first two siblings they were 3 aged 10 months and two and a half years. Four years 4 later they were still in foster care. Everybody in 5 the system said the rights had to be terminated, 6 CPS, therapists, attorney ad litem, that we actually 7 had one. But the judge didn't want to hear the 8 case. Kept putting it off because the parents had 9 asked for a jury trial. Never had one in that 10 county before. 11 So I sat at his office Monday, 12 Tuesday, Wednesday, Thursday, Friday of one week and 13 went back the next Monday. And he came out and 14 finally said, "Are you ever going to go home?" And 15 I said, "No. Not until you set this case." He then 16 said, "Well, I guess the squeaky wheel does get the 17 grease." He set the case. We walked into court for 18 the case, and we had a visiting judge. Very 19 interesting. 20 We've come a long way. We have rules 21 now that are designed to help us move children 22 through the system. I'm really proud to have served 23 on the Committee for Adoption under Governor Bush 24 where we set the timelines of 12 months and 18 25 months well before the federal government made that</p>

<p style="text-align: right;">Page 190</p> <p>1 federal law. We recognize the need to move children 2 speedily through the system, always needing to look 3 at the best interest of the child over all else. 4 Lutheran Social Services -- and 5 you'll see some information that I've provided for 6 you -- is the largest child placing agency in the 7 state, faith-based organization, nonprofit, and we 8 serve over 1,300 children a day. You'll find a 9 graph that also shows that last fiscal year Lutheran 10 Social Services actually served more children than 11 CPS did in their own foster homes. 12 We've facilitated over 6,800 13 adoptions since our inception. 217 of those were 14 children in CPS care last calendar year. We're all 15 over the state in 18 offices with foster care and 16 adoption. We have contracts for post-adoption 17 services in the Dallas region and the Austin region. 18 We provide many other types of treatment services 19 through three residential treatment centers. 20 We truly applaud the work of this 21 commission and the setting up of the commission, 22 particularly Judge Specia who I really had the honor 23 of being able to participate in court with many of 24 my children because I lived in the San Antonio 25 region. One of the things we looked about is her</p>	<p style="text-align: right;">Page 192</p> <p>1 the people who know them best not to have an 2 opportunity to speak. 3 We have staff who come back so 4 frustrated when they are allowed to sit in the 5 courtroom. Foster parents voice the same thing, 6 it's that, "Why didn't the CPS worker give them the 7 information? We gave it all to them. Why didn't 8 they share it with the Court? Why aren't they 9 sharing vital information with the Court?" 10 The rest of the information you'll 11 see in your packets. I truly appreciate the 12 opportunity to speak to you, and after 34 years in 13 the system I haven't given up yet. A friend of mine 14 once told me back in, I think it was 1990 I saw a 15 letter from him -- he was a true advocate and one of 16 my mentors. He said, "You know, Irene, advocating 17 in the child welfare system, particularly Child 18 Protective Services, is like playing leapfrog with a 19 unicorn," and I have tell you that some days it 20 feels that way. Today it doesn't. Today I've got 21 lots of hope. Thank you. 22 CHIEF JUSTICE JEFFERSON: Thank 23 you. 24 THE MARSHAL: May it please the 25 Court, Mr. Joe Gagen, Chief Executive Officer of</p>
<p style="text-align: right;">Page 191</p> <p>1 testimony that a representative of the child placing 2 agencies should be a member of the commission. We 3 currently serve about 83 percent of the children 4 that are in out-of-home care, 99 percent of all the 5 children with treatment service needs. We are an 6 integral part of the daily lives of those children. 7 You heard Mr. Block talk about the 8 need for an experienced tenured foster parent or 9 someone who was a foster parent for a long time to 10 serve on the commission, because they can tell you 11 where the rubber hits the road every day; not only 12 on the care of the kids, how difficult it is to get 13 services, how hard it is to get the attention of 14 those people who are responsible for them, and how 15 hard it is to get the attention of the attorney 16 ad litem often in this system. 17 We have Senate Bill 759 now that 18 requires at least a 10-days notice to foster parents 19 and the child placing agency. We want -- we'd love 20 to know when we're going to start getting that. And 21 Bill 759 also says that the foster parents -- and I 22 wrote down the words here -- "are entitled to be 23 present and heard at hearings." We have courts in 24 the state that do not allow foster parents in the 25 courtroom. It's an injustice to these children, to</p>	<p style="text-align: right;">Page 193</p> <p>1 Texas CASA in Austin has requested five minutes for 2 testimony. 3 MR. GAGEN: Mr. Chief Justice, 4 members of the Court, I'll tell you how hard it is 5 to stay up here and not say "may it please the 6 Court." I was taught that in law school. But I 7 wanted to thank you-all for this opportunity, and I 8 want to particularly thank the Chief Justice and 9 Justice O'Neill for setting the stage for this 10 hearing today. 11 And also, if the Court would indulge 12 me, I'd like to just tell you how proud I am of the 13 two CASA volunteers and the three executive 14 directors that we had testify today. We covered 15 across the state from Amarillo to Dallas to 16 Beaumont, and those volunteers represent over 4,000 17 CASA volunteers that we have across the state, and 18 they indeed represent 67 programs that we have 19 throughout the state. 20 And our community is very supportive 21 of what's going on here today. We support the 22 commission for all the reasons that have been stated 23 by all the witnesses. But there's one particular 24 reason that was stated by Judge Edwards at the very 25 beginning of the proceedings, and he talked about</p>

<p style="text-align: right;">Page 194</p> <p>1 the role of the commission inspiring the district 2 courts.</p> <p>3 And I think that's one of the reasons 4 that our community is so excited about this, is 5 because of the potential and the opportunity for you 6 to inspire the local courts to bring about the 7 collaboration and the excellence that we need in 8 this system. And I want you to know that we stand 9 willing as a CASA community to support this 10 commission in any possible way that we can. Thank 11 you very much.</p> <p>12 JUSTICE HECHT: Do you have 13 a -- do you experience difficulties in courts around 14 the state intervening or helping the way you think 15 would be best for the particular cases?</p> <p>16 MR. GAGEN: Yes, we do.</p> <p>17 JUSTICE HECHT: Are there 18 procedural kinds of problems or --</p> <p>19 MR. GAGEN: I think it varies 20 from court to court, but it's -- and oftentimes it's 21 the perception of the court as to the proper role of 22 the CASA volunteer in the proceedings.</p> <p>23 JUSTICE HECHT: And how does 24 that vary? What are the ranges?</p> <p>25 MR. GAGEN: Well, in some courts</p>	<p style="text-align: right;">Page 196</p> <p>1 CASA volunteer as a very critical resource for them 2 in that decision-making process, but obviously if 3 they're appointed as a guardian ad litem, their 4 status in the court is going to cause them to -- for 5 more attention to be paid.</p> <p>6 JUSTICE O'NEILL: And would you 7 say that's a matter of training, or is that more a 8 matter of local practice?</p> <p>9 MR. GAGEN: I think that's a 10 matter of maybe a combination of both. Thank you.</p> <p>11 CHIEF JUSTICE JEFFERSON: Thank 12 you very much.</p> <p>13 THE MARSHAL: May it please the 14 Court, the Honorable Gil Jones, Judge of the 33rd 15 District Court in Burnet has requested five minutes 16 for testimony.</p> <p>17 JUDGE JONES: Mr. Chief Justice, 18 members of the Court, there can be no further 19 question in the minds of the citizens of Texas about 20 how the judiciary regards children and the 21 protection of children after this. I doubt there 22 was much doubt, but there certainly can be none 23 further. It's been my pleasure to serve on the 24 Court Improvement Project with Justice O'Neill, and 25 what she and the Chief and every one of you is doing</p>
<p style="text-align: right;">Page 195</p> <p>1 the -- they see the CASA volunteer as a critical 2 element for them to be their eyes and ears of what's 3 happening and very much solicit that input from the 4 CASA volunteer. They see them as kind of a resource 5 for the court to understand what's going on and how 6 to make the best decision.</p> <p>7 In other courts they see them more as 8 someone to be called upon if the attorneys feel it's 9 appropriate to be called upon or someone that should 10 only be a player if the litigants, so to speak, see 11 that that volunteer has an appropriate role. And so 12 there's probably a continuum and some more places in 13 between.</p> <p>14 JUSTICE HECHT: Thank you.</p> <p>15 JUSTICE O'NEILL: Is that 16 continuum reflected in the role that the court 17 appoints them to? For example, if they go ahead and 18 appoint them as a guardian ad litem, I would presume 19 they have a more active role than if someone 20 appoints them as a friend of the court, so to speak.</p> <p>21 MR. GAGEN: I think that's 22 exactly right. I think that how they appoint them 23 oftentimes is reflected in that. Although there are 24 courts that appoint CASA volunteers as friend of the 25 courts that allow that CASA volunteer or use that</p>	<p style="text-align: right;">Page 197</p> <p>1 here is momentous.</p> <p>2 I want to give you just a little bit 3 of my context as the judge of a rural court; I want 4 to support the concept of this commission; I want to 5 express a couple of ideas about the commission 6 composition; and lastly, from a rural court 7 perspective just highlight a few things that have 8 been mentioned in the Collaborative Group's 9 discussion and further mentioned by many people here 10 today.</p> <p>11 Mine is a rural court. I have four 12 counties, general jurisdiction court. The question 13 about meth came up. I deal with meth every day, 14 whether it's the family docket, the CPS docket, the 15 felony docket, or the juvenile docket. I actually 16 had one case in one of the counties that I won't 17 mention where I had, with one juvenile and those 18 parents, every bit of my jurisdiction invoked. That 19 was a unified family felony juvenile court, to say 20 the least.</p> <p>21 I also run a drug court. As I said, 22 I deal with meth almost every day on one docket or 23 another. I now have an associate judge for the CPS 24 cases, I have a cluster court; but I heard those 25 cases directly for many years, and I still conduct</p>

<p style="text-align: right;">Page 198</p> <p>1 all of the jury trials involved. I was on the Court 2 Improvement Project, still am, have been for about 3 10 years. 4 I support the concept of the 5 commission. I won't repeat what has been said often 6 here today, but I support it strongly. I encourage 7 the creation of it, and I commend to it and to this 8 Court's continued oversight of it a view of the 9 process of the system and view it as a process with 10 many components. I think the strength of the 11 current task force is the diversity of its 12 membership and the multidisciplinary approach that 13 it's able to take, and I hope that the commission 14 mirrors that. 15 I hope the trial court bench is well 16 represented on that commission. When the 17 multidisciplinary collaboration process breaks down, 18 let's face it, it is, after all, then an adversarial 19 system. It requires the trial court then to be 20 involved and to know what is going on when that 21 happens. 22 I think frequently the referring 23 courts hear the jury cases because our cluster court 24 judges -- mine has 12 counties, and they're occupied 25 every single day on their regular dockets. So I</p>	<p style="text-align: right;">Page 200</p> <p>1 guardians ad litem. That's what we do in my 2 jurisdiction. 3 I, in fact, went through the CASA 4 training before I took the bench. I know what they 5 do, I know what they're trained to do, and I have 6 seen what they can do in court. I would push that 7 support to the end that every child in every county 8 in every case has a CASA advocate and that that 9 advocate is the guardian ad litem separating the 10 roles of attorney ad litem and guardian ad litem. 11 Thank you for what you're doing here 12 today, not only in grading my papers, but especially 13 in what you're doing in this process. 14 CHIEF JUSTICE JEFFERSON: Judge, 15 thank you very much. And are there any questions? 16 JUSTICE O'NEILL: I have to say 17 Judge Jones has been a very active member of the 18 task force. He never misses a meeting. I'd love it 19 if you could just real quickly, one of the things 20 I've picked up on through this process is the 21 benefits of mediation. And as judges and former 22 trial court judges, my first reaction was, how can 23 you mediate a child protection case? And you had a 24 comment on that in our last meeting. 25 JUDGE JONES: Yes. That seems</p>
<p style="text-align: right;">Page 199</p> <p>1 continue to hear the jury trials and am glad to do 2 so. 3 There are a couple of areas that are 4 important for all of the courts, but I think 5 especially for the rural courts. Now, one of those 6 is the training for ad litem that has been 7 mentioned several times. It's very difficult for us 8 where we have a relatively small number of lawyers 9 who usually practice in all areas of the law to have 10 enough lawyers to be ad litem, and it's more 11 difficult than in the cities to have them properly 12 trained and to have continuing education focusing in 13 those areas. I know there are tools in the process 14 for enhancing the collaboration among the judges, 15 both district and the cluster court judges, and I 16 encourage that effort. I have spoken frequently 17 with Mr. Reynolds about those processes and am very 18 interested in those. 19 I would commend the look at the 20 cluster court prosecutors. There was a pilot 21 project for that. I think that can enhance the 22 cluster court judge process that has proven to be so 23 effective. And I also want to voice the strongest 24 possible support for CASA, for the courts' use of 25 CASA, for the courts' appointment of CASA as</p>	<p style="text-align: right;">Page 201</p> <p>1 difficult. I think I was probably one of the first 2 judges in Texas to refer a termination case to 3 mediation. I was told it could not be mediated, it 4 just wouldn't work. They worked it out in two 5 hours. Seriously, two hours. We send all of the 6 cases to mediation before we set them for trial. 7 I'm not sure of the number exactly, but I'd say 80, 8 85 percent of them -- and these are the termination 9 cases -- settle at mediation. Sometimes it takes 10 all day, but that, as you know, is a collaborative 11 process, and that is a better result even for the 12 parent whose rights are terminated. 13 CHIEF JUSTICE JEFFERSON: Are 14 these volunteers or -- 15 JUDGE JONES: I have -- who are 16 the mediators? 17 CHIEF JUSTICE JEFFERSON: That's 18 right. 19 JUDGE JONES: These are 20 mediators who regularly mediate in family law cases 21 and also specifically in the CPS cases. I pay them 22 out of the same budget as for court-appointed 23 attorneys. I pay them at that rate. There are a 24 number of them also who do that pro bono, and of 25 course, at the rate we pay it's about two-thirds</p>

<p style="text-align: right;">Page 202</p> <p>1 pro bono anyway. Highly effective. 2 JUSTICE O'NEILL: I've heard it 3 said, and I would want to hear your experience, that 4 often in that venue parents are more willing to 5 voluntarily terminate than they are if they are 6 adversarial in a courtroom. Have you found that to 7 be true? 8 JUDGE JONES: Absolutely. 9 Absolutely. Anything else? 10 CHIEF JUSTICE JEFFERSON: No. 11 Thank you. 12 JUDGE JONES: Thank you for this 13 opportunity. 14 THE MARSHAL: May it please the 15 Court, Mr. Mike Foster, President of the Texas 16 Association of Child Placing Agencies in Austin has 17 requested five minutes for testimony. 18 MR. FOSTER: Good afternoon, 19 and thank you for the opportunity to comment. I'm 20 Mike Foster. I'm Director of Program Development 21 for Caring Family Network, which is a local child 22 placing agency. I'm also the current President of 23 the Texas Association of Child Placing Agencies. 24 I've been working with kids and families in the 25 child welfare system in Texas for over 36 years, and</p>	<p style="text-align: right;">Page 204</p> <p>1 families need our help more than ever. 2 The only viable short-term solution 3 in improving an underfunded and inadequate system is 4 to maximize our strengths and resources. Every 5 stakeholder should leverage their participation by 6 effectively collaborating with one another. We must 7 all work together to empower each other to do our 8 best work. A permanent judicial commission to 9 strengthen child protection courts can be that 10 powerful catalyst to provide more effective 11 collaboration. 12 Courts have long provided the 13 guidance and leadership to the participants in the 14 child welfare system, but that job has become much 15 more difficult. The issues continue to grow, the 16 difficulties that families face now are more acute, 17 more chronic, and more complicated. Child welfare 18 is no longer confined to just custodial issues, 19 permanency, and safety. Well being is not easily 20 achieved by those who have experienced abuse and 21 neglect. 22 It is our belief that every child who 23 enters our child welfare system has experienced 24 trauma, and that trauma needs treatment. 25 Maltreatment will seldom heal itself. We now need a</p>
<p style="text-align: right;">Page 203</p> <p>1 I want to share one of our early stories. 2 We had a young man in care named 3 Kevin who was 10 years old and had already been in 4 14 placements, and I was accompanying him to a court 5 hearing in Gonzalez, Texas. And I had worked with 6 Kevin for over a month to teach him to be 7 respectful, to share his feelings, to be articulate. 8 And we were worried that we weren't going to get the 9 opportunity to continue to work with Kevin. There 10 were people involved in the case who thought that he 11 should leave treatment and return home, and we 12 didn't think he was ready. 13 Well, we got to court and the judge 14 asked Kevin a question, and he replied by saying, 15 "Shut up, you old bald-headed fool." The judge 16 brought his gavel down and said, "This young man 17 needs to stay in residential treatment," and I'm 18 ashamed to say I took Kevin straight to the Dairy 19 Queen and bought him a chocolate shake. 20 Current services to maltreated 21 children and families in Texas are insufficient. 22 They're very hard to access, they're broken, 23 fragmented, and underfunded. Everyone is severely 24 challenged to provide the care and environment that 25 continues to border on crisis. Kids and their</p>	<p style="text-align: right;">Page 205</p> <p>1 court-directed child welfare system that embraces 2 all the services and resources needed to succeed 3 with kids and their families. Those services should 4 include an array of resources that begin with 5 comprehensive assessment and include mental and 6 behavioral health services throughout the continuum 7 of care. 8 Stability is often the most difficult 9 service component to deliver to kids and families. 10 Justice O'Neill's observation that stable kids 11 become responsible adults should be a guiding 12 principle. Dr. Bruce Perry of the Child Trauma 13 Academy said that without external consistency 14 children cannot develop internal consistency. 15 Improving stability is a critical outcome for 16 helping children and families. 17 The courts have an important role in 18 the timely direction of service delivery. Generally 19 the work of the court does not include prevention. 20 Usually families have already experienced 21 significant problems by the time they're in court. 22 After prevention the most important step is early 23 intervention. Too often kids and families don't 24 receive the help when they need it the most. 25 Services delivered too late or inefficiently are</p>

<p style="text-align: right;">Page 206</p> <p>1 ineffective. It is too little too late. 2 Every child and family has a window 3 of opportunity when services are most effective. 4 When that window is lost the work becomes much more 5 difficult, more time-consuming, more expensive, and 6 less likely to succeed. Early intervention is a 7 very important component to public health care, and 8 it should be a compelling issue in improving the 9 delivery of services to kids and family. We should 10 provide all the services and the resources to repair 11 every family. If we can't repair that family, then 12 we need to replace that family with a safe, stable, 13 healthy, and permanent home as soon as we can. 14 The Texas Association of Child 15 Placing Agencies fully supports the creation of a 16 permanent judicial commission to strengthen the 17 child protection courts. We recommend that the 18 number of at-large members be reduced so that the 19 commission can include at least one member from a 20 child placing agency, one member from the foster 21 care alumni, one member from kinship care, one birth 22 parent, and one foster parent. If it is not 23 possible for them to serve at the commission level, 24 then they should be standing members of the advisory 25 council. The council should also include</p>	<p style="text-align: right;">Page 208</p> <p>1 JUDGE RUCKER: Mr. Chief 2 Justice, members of the Court, good afternoon. I'm 3 Dean Rucker. I'm judge of the 318th Family District 4 Court in Midland, the oasis of the desert. I'm also 5 the presiding judge of the 7th Administrative 6 Judicial Region, a 40-county region in the heart of 7 west Texas. 8 On behalf of the Consultative Group 9 and those who have spoken today I want to thank you 10 for this historic hearing, and I give special thanks 11 to Justice O'Neill for her inspiration, her passion, 12 and her visionary leadership which has led us to 13 this important day. She has been a tireless 14 champion for the children who are victims of child 15 abuse and neglect. 16 And finally, I give heartfelt thanks 17 to those who spoke today and gave us their 18 compelling testimony. I know the concerns and 19 recommendations that they voiced have been heard by 20 this august body of jurists. Today you've heard 21 about a number of problems or issues that are faced 22 in the child welfare system and in the disposition 23 of abuse and neglect cases and how a commission can 24 assist in their resolution. 25 As I'm sure you've discovered, these</p>
<p style="text-align: right;">Page 207</p> <p>1 stakeholders and practitioners who have historically 2 served kids and families in the child welfare and 3 mental health environment. Public education is an 4 important component, and educators should be 5 included on that council. Data-driven, 6 best-practice, evidence-based treatment that is 7 outcome focused is critical to improving care to 8 kids and families. 9 Equal treatment should include 10 comprehensive assessment designed specifically for 11 maltreated children and their families. That 12 assessment should be a roadmap to directing 13 effective and timely services to these kids. The 14 comprehensive assessment should be the first step in 15 the continuum of care that includes early 16 intervention, stability, and availability of mental 17 health services and the repair or the replacement of 18 a safe and healthy permanent family. Thank you. 19 CHIEF JUSTICE JEFFERSON: And 20 thank you. Are there any questions? Thank you, 21 sir. 22 COURT MARSHAL: May it please 23 the Court, the Honorable Dean Rucker, Judge of the 24 318th District Court in Midland has requested five 25 minutes for testimony.</p>	<p style="text-align: right;">Page 209</p> <p>1 are not just local problems. They are statewide 2 problems which affect our local courts and our 3 communities. Some may question the judiciary's 4 involvement in bringing stakeholders to the table 5 and engaging in multidisciplinary discussions about 6 improvements to the child welfare system. And to 7 them I say, if not us, then who? 8 Collectively we are the judges who 9 have consistently presided over these cases. We 10 know these children we serve and the problems they 11 face. We have taken these children into the court 12 system as infants, we have seen them leave the 13 system as adults. I have been on the bench for 14 almost 20 years, long enough to see a young child 15 taken into foster care and then have her own 16 children taken into care many years later. 17 We have experienced the shortage of 18 qualified foster homes. We have felt the pain of 19 failed placements. We have shared the frustration 20 over the lack of services and resources that are 21 simply not available in our communities. We have 22 felt the gut-wrenching emotional pain over the loss 23 of a child who died because the system failed him, 24 and we know the joy of a family that has 25 successfully and safely reunited or of a family who</p>

<p style="text-align: right;">Page 210</p> <p>1 has adopted the child that they always wanted. 2 Leadership is needed to bring people 3 and resources together as we attempt to effect 4 systemic change and effect court improvement, all 5 with the goal of providing safe, positive outcomes 6 for children in our court system. This Court has 7 already demonstrated its leadership in this area by 8 its creation of the Supreme Court Task Force on 9 Foster Care 12 years ago, and now you have the 10 opportunity to enhance your leadership and create a 11 Judicial Commission for Children, Youth and 12 Families. 13 By your order creating a commission 14 you will not only underscore your leadership, you 15 will also be telling your fellow Texans that this is 16 important work of the highest calling. It is one 17 thing to have judicial leadership at the trial court 18 level, and Texas has been very fortunate to have 19 many visionary leaders such as Judge Specia and 20 Judge Macias. As trial judges we have the power to 21 move a community, our own local community to action. 22 However, moving an entire state to action calls for 23 a commission under the leadership of this Court. 24 This will bring together all stakeholders with the 25 singular goal of improving the child welfare system.</p> <p style="text-align: right;">Page 211</p> <p>1 Therefore, I respectfully urge this 2 Court to create a Judicial Commission for Children, 3 Youth and Families, and I thank you for the honor of 4 addressing you today. 5 CHIEF JUSTICE JEFFERSON: Thank 6 you very much, Dean, for all your service to the 7 state and in all kinds of capacities. I don't know 8 if everyone understands that judges are paid pretty 9 much a set salary, and when they take on additional 10 obligations like Dean Rucker has done, it comes with 11 no additional pay but with the gratitude of a 12 grateful Court. So thanks for everything you do. 13 JUDGE RUCKER: Thank you. 14 CHIEF JUSTICE JEFFERSON: And 15 Justice O'Neill, would you give a response to the -- 16 JUSTICE O'NEILL: Well, I will 17 echo what the Chief Justice and Judge Rucker have 18 said. I thank everyone for taking their time. I 19 know everyone's busy. I'm constantly struck and 20 touched by the commitment of everyone who's involved 21 in this field. It's relatively new to me, but from 22 the time I walked into my first Foster Care Task 23 Force meeting I was hooked. 24 And I'm proud to say we have a 25 phenomenal team in Texas. Tina Amberboy and</p>	<p style="text-align: right;">Page 212</p> <p>1 Christi Taylor at the court have been so 2 enthusiastic, Cary Moran who we've just brought on 3 board, Carl Reynolds. We have a very strong 4 in-court team. Joyce James has been at the table 5 every step of the way. So I feel like with this 6 core strong group we can move forward with the solid 7 support of the Supreme Court, and I thank you all 8 for the very important work that you do every day. 9 CHIEF JUSTICE JEFFERSON: And I 10 would just like to add that the Court has heard the 11 term "forgotten children," and I think, as I hope 12 our presence demonstrates, we have not forgotten the 13 children [at this point the webcast sound went out 14 for approximately a minute and a half] -- a 15 Commission for Children, Youth and Families, and we 16 thank all of you for your presence today and for 17 your contributions to this Court and to this state. 18 The Marshal will now adjourn the Court. 19 THE MARSHAL: Oyez, oyez, oyez, 20 the Honorable, the Supreme Court of Texas, now 21 stands adjourned. 22 (At this time the webcast 23 concluded.) 24 25</p> <p style="text-align: right;">Page 213</p> <p>1 REPORTER'S CERTIFICATION 2 OF SEPTEMBER 25, 2007 WEBCAST 3 I, Sandra S. Givens, Certified Shorthand 4 Reporter in and for the State of Texas, hereby 5 certify to the following: 6 That this transcript of the September 25, 2007 7 Supreme Court Public Hearing Regarding the Creation 8 of a Judicial Commission for Children, Youth and 9 Families is a true record of the proceedings as 10 taken down by me via webcast on October 1, 2007; 11 That the hearing transcript was submitted on 12 October 5, 2007 to Tina Amberboy of the Supreme 13 Court Task Force on Foster Care; 14 I further certify that I am neither counsel 15 for, related to, nor employed by any of the parties, 16 members, or attorneys involved in this proceeding, 17 and further, that I am not financially or otherwise 18 interested in the outcome of the action. 19 Certified to by me this 5th day of October, 20 2007. 21 GIVENS COURT REPORTING 22 9532 Morgan Creek Drive 23 Austin, Texas 78717 24 (512) 301-7088 25 _____ SANDRA S. GIVENS, CSR Certification No. 5000 Certificate Expires 12/31/07</p>
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