

UNMANAGEABLE CASELOADS

excerpts from the 250 page decision by Judge Jack

FROM THE RULING: ***“Thus, national professional organizations, heads of other state’s child welfare systems, both parties, and this Court agree that excessive caseloads cause an unreasonable risk of harm to foster children.”***

Ruling acknowledges the role of DFPS staff - cites the indifference toward the issue by the agency.

CVS caseworkers “provide or coordinate services to families in which children have been removed from their homes and placed in the State’s custody because of significant risks to their safety.” They are “the frontline workers of the child welfare system.” ...CVS caseworkers are foster children’s “lifeline,” their “connection to everything.” They are the principal DFPS employees tasked with ensuring the safety, permanency, and well-being of foster children. **CVS caseworkers have been described as “the backbone of the State’s effort to protect children” who “make life-and-death decisions every day,” (Page 161)**

Ruling quotes experts, former workers and current administrators - all agree when caseload levels are low, the client receives best services.

Unlike other child welfare systems, DFPS “puts no limits on the caseload size that a conservatorship worker can carry. One of DFPS’s Regional Directors agreed that “an overloaded case worker is bad for the children they are supposed to protect.” Commissioner Specia admits that high caseloads “put a burden on the worker” and “can have a number of negative consequences.” DFPS also agrees that caseloads must be manageable in order to protect foster children. Before working for DFPS, Burstain said, “With caseloads at a manageable level, caseworkers could visit with children and families more often and ensure that children were safe and families were getting needed services.” Likewise, “Lower caseloads reduce the paperwork load and allow [conservatorship] workers to spend more time helping families and children.” Yet DFPS has not capped its caseloads. Most shocking, McCall, the DFPS officer in charge of making sure that caseworkers have manageable workloads, has “no idea what size child caseload [her] conservatorship workers should have in order to do their jobs properly.” Regardless, McCall agreed that overburdened CVS caseworkers create an unreasonable risk of harm for foster children. **Thus, national professional organizations, heads of other state’s child welfare systems, both parties, and this Court agree that excessive caseloads cause an unreasonable risk of harm to foster children.” (Page 163)**

Eleven weeks to read 20 cases.

To gain a perspective on what is a manageable caseload, the Court calculated how many hours it took to simply review the 20 foster children’s case files that are in the record, including Named Plaintiffs’. **Bearing in mind that a 20-child caseload is below what many DFPS primary caseworkers carry, it took the Court 462 hours just to read the 358,102 pages of case files in DX 120.** Admittedly, the Court is not (or was not) well trained at reading case files. That said, any added time it took the Court to read the case files was offset by their incomplete nature: the records contained no CPA investigation files, and there were no IMPACT or RCCL files for multiple children. In short, reading case files, a necessary step for caseworkers to understand the needs of their foster children, takes around **eleven uninterrupted workweeks.** Considering the frequent turnover among caseworkers, this onerous task is duplicated many times for each child. It is no surprise, then, that caseworkers “just don’t have enough hours in their day” to focus on their children. As a result, the needs and safety of Texas’s PMC children are being overlooked **(Page 166)**

“In short, CVS caseworkers are crucial to the safety and well-being of all foster children, including PMC children. They are responsible for ensuring that PMC children are reasonably safe while in the State’s custody. **DFPS has known for decades that its primary CVS caseworkers are overburdened to the point where they cannot perform their required duties, namely protecting their foster children from an unreasonable risk of harm.** The Court does not find that DFPS has “responded reasonably” to the substantial risk of serious harm posed by overburdened caseworkers. DFPS is therefore deliberately indifferent toward excessive caseworker caseloads.” **(Page 198)**

“The Court also finds that DFPS is deliberately indifferent toward the substantial risk posed by an inadequate RCCL workforce. In 2010, RCCL staff reported that caseworker and supervisory responsibilities were “too large” and workloads too “intense” to “effectively monitor operations.” Since that time, **RCCL’s workforce has shrunk by over 30% while total cases remain the same.** RCCL knows that manageable workloads “would help reduce risk to children placed in residential operations and promote staff retention.” Yet DFPS has not conducted a workload study of RCCL workers, established caseload ranges for RCCL workers, or determined what a manageable caseload would be.” **(page 214)**

Recommended caseload levels

- Dr. Miller, who ran the DFPS equivalents in Tennessee and Kentucky, established a primary caseworker caseload range of 14 to 17 children in Tennessee, with a maximum of 20. When caseloads exceed 20 children, Dr. Miller explained, the caseworkers' "work really begins to suffer and the children for whom that work is being done begin to suffer." Moreover, Dr. Miller said, setting reasonable caseload caps allows a child welfare agency to better handle caseworker turnover. Dr. Miller's 14 to 17 child caseload range provided that when a worker resigned or went on leave, their work could be distributed without causing caseloads to exceed 20, assuring that "none of those kids fell through the cracks."

Program	Caseload Advisory Committee	National Organizations
CPS Investigations	15	12 - Child Welfare League of America (CWLA)
CPS Family Based Safety Services	10	17 - CWLA
CPS Conservatorship	20	12 to 15 - CWLA
CPS Foster / Adoption Development	20	15 - CWLA
APS In Home	22	25 - National Assoc. of APS Administrators
CCL Monitoring	64	50 - National Assoc. for the Education of Young Children
CCL- Investigations	8-17	

- The Council on Accreditation advocates caseloads of 8 to 15 children.

Legislature mandated limits: they were never implemented

- In 1997 the Legislature passed SB 359, the re-authorization of the Department of Protective and Regulatory Services under sunset requirements. The department was renamed the Department of Family and Protective Services under HB 2292 of the 78th Legislature. SB 359 mandates the establishment of "caseload standards" for DPRS programs. A committee appointed by the HHSC Commissioner recommended caseload limits in its 1998 report: these limits have never been implemented.

The following bills to establish caseload standards have been filed previously

- 2015, 84th HB 993, Walle
- 2013, 83rd HB 304, Walle; SB 1748, Uresti
- 2011, 82nd HB 1342 and HB 712, Walle
- 2009, 81st. HB 4159, Patrick Rose
- 2007, 80th. HB 3108, Bolton
- 1997, 75th HB 1945, Naishtat SB 359, Brown
- 1995, 74th HB 894, Naishtat
- 1993, 73rd HB 1981, Naishtat

"DFPS's Deception": Caseload numbers manipulated to appear lower

"...the Court notes that caseworker caseloads are still something of an open question despite years of litigation and weeks of trial. The problem is that Texas calculates caseloads in terms of "stages," each of which represents an aspect of the work that needs to be done with a child or her family, rather than by individual children. DFPS stages could include Intake, Investigation, Family Preservation, Child Substitute Care (relating to children removed from the home), Family Substitute Care (a stage created for families when a child has been removed from the home), Foster and Adoptive Home Development, Kinship, and Adoption. (DX 167). One child, then, could represent several stages simultaneously. She could be in the Child Substitute Care and Adoption stages while her family was in the Family Substitute Care one. DFPS's way of counting caseloads is unique to Texas. (D.E. 302 at 50; D.E. 303 at 4-5). Defendants' and Plaintiffs' experts could barely understand the stage-counting approach, let alone explain it to the Court. (Page 162)

Beyond its nebulous stage-counting approach, DFPS "counts [as caseworkers] people that are not there," such as workers on maternity or medical leave. Moreover, secondary I See You workers and Centralized Placement Unit workers "are categorized in [the DFPS] computer system as conservatorship caseworkers" even though neither workforce has close to the responsibility of a primary caseworker. DFPS also counts caseworkers that only keep track of one child, part-time caseworkers, and fictive workers who are "created out of all the overtime," which "are not actually even people." DFPS's data already shows excessive caseloads. The Court can only imagine the actual figures if make-believe people are no longer counted. (Page 164)