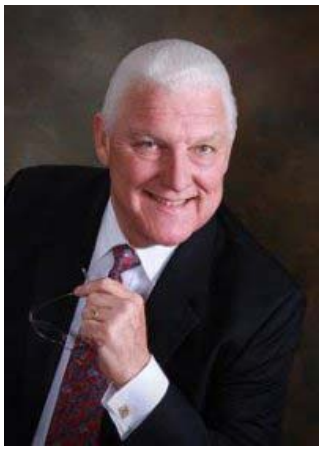

**To:** **Texas Judges Hearing Child Protective Services Cases**

**From:** **Hon. John Specia, Senior District Judge, Jurist in Residence, Office of Court Administration**

**Date:** **May 29, 2012**

**RE:** **Court Hearing Practices and Court Costs**

I want to share an important analysis with you that may provide insight as to how some of our courts hearing child protection cases are achieving more favorable permanency outcomes and lower caseloads in permanent managing conservatorship (PMC) cases. This analysis also includes valuable information about the costs associated with these hearings.

Texas Appleseed prepared the attached white paper, entitled *Texas Children in Long-Term Foster Care: Outcomes, Court Hearing Practices, and Court Costs*, in conjunction with the Supreme Court Children's Commission and Casey Family Programs. The white paper examined seven jurisdictions, including Bexar County, Dallas County, Harris County, Travis County, Child Protection Court (CPC) of Central Texas, CPC of Permian Basin, and CPC of Northeast Texas. The white paper provides insight into how some of the courts studied were able to achieve more favorable outcomes in their PMC cases through the use of certain judicial practices such as bringing kids to court, holding placement review hearings as often as necessary, but at least every four months, and ensuring every child in PMC has an advocate.

While hearing practices varied widely among the seven jurisdictions, as they do across our state, the report supports the conclusion in Texas Appleseed's 2010 Report, *Improving the Lives of Children in Long-term Foster Care: The Role of Courts and the Legal System,* that judges play a critical role in improving outcomes, in part, by engaging in intense, and sometimes demanding, judicial oversight. The 2010 report is available on Texas Appleseed's website, linked here:
http://www.texasappleseed.net/images/stories/reports/FosterCare-rev_press.pdf

Texas Appleseed's white paper will be released statewide later this month to all CPS judges and child welfare stakeholders with the goal of sharing information about these successful practices and continuing to work in partnership with our judicial and child welfare system toward reforms that help ensure the best life outcomes for children in long-term foster care. I encourage all of you to read the white paper and consider your court's practices.

# Texas Children in Long-Term Foster Care: Outcomes, Court Hearing Practices, and Court Costs

**May 2012**

Texas
APPLESEED

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**Texas Appleseed Mission**

Texas Appleseed's mission is to promote social and economic justice for all Texans by leveraging the skills and resources of volunteer lawyers and other professionals to identify practical solutions to difficult systemic problems.

**Acknowledgements**

This report was produced in collaboration with the **Supreme Court's Children's Commission** and **Casey Family Programs**. Texas Appleseed relied on the expert analytical assistance of **Allen Page, CPA, JD**, and the firm of **DLA Piper** to determine costs for each jurisdiction. The outcomes data and assistance of **Andy Barclay** and **Christopher Church** from **Fostering Court Improvement** was invaluable.

Texas Appleseed is grateful to the **Meadows Foundation, the Rees-Jones Foundation,** and **the RGK Foundation** for their generous support of this project.

We would also like to thank **Kate Meals** and **Elizabeth Roehm** for their help.

# Texas Children in Long-Term Foster Care: Outcomes, Court Hearing Practices, and Court Costs

## EXECUTIVE SUMMARY

In 2010, Texas Appleseed published a report entitled *Improving the Lives of Children in Long-Term Foster Care: The Role of Texas' Courts & Legal System*, which focused on the role of the courts and the legal system in moving children from long-term foster care to safe, permanent homes.[1] To continue this effort of determining how courts can help better expedite this process, we examined the specific outcomes, costs, and practices of various jurisdictions over the past six months to see what, if any, correlations existed.

Our analysis focuses on seven jurisdictions[2], distributed among urban and rural areas, which have relatively larger and smaller dockets, respectively. Two of these jurisdictions, the Child Protection Court (CPC) of Central Texas (CPC Central Texas) and Travis County, have implemented the recommended best practices[3] identified in our 2010 report, while the other five jurisdictions, Bexar County, Dallas County, Harris County, the CPC of Permian Basin (CPC Permian Basin), and the CPC of Northeast Texas (CPC Northeast Texas), have implemented them to varying degrees. The non-profit Fostering Court Improvement (FCI) provided us with child outcomes data and analysis for children in long-term foster care or permanent managing conservatorship (PMC) in these same counties over a period of 10 years. We also conducted an in-depth analysis of court hearing practices and costs associated with PMC hearings.[4]

**Our analysis shows that outcomes, court practices, and costs vary considerably between jurisdictions. In addition, there is a clear correlation between courts' consistent implementation of best practices and better outcomes for children in the studied jurisdictions.** Travis County and CPC Central Texas consistently use many of the identified best practices such as having children attend the PMC hearing, ensuring children in PMC have a well-informed and engaged advocate, and scheduling hearings more frequently than the six-month statutory requirement.[5] These two courts

[1] Texas Appleseed, *Improving the Lives of Children in Long-Term Foster Care: The Role of Texas' Courts & Legal System* (2010) [hereinafter 2010 Appleseed Report]. The Supreme Court of Texas Permanent Judicial Commission for Children, Youth, and Families (Children's Commission) commissioned the 2010 study and report.
[2] Our cost analysis only includes six of these seven jurisdictions and does not include the Child Protection Court (CPC) of Permian Basin (CPC Permian Basin).
[3] For the purposes of this white paper, these recommended practices are referred to as best practices.
[4] In this report, PMC hearings refers to placement review hearings under TEX. FAM. CODE § 263 Subchapter F as well as any follow-up hearings ordered by the judge for children in PMC.
[5] *See* TEX. FAM. CODE § 263.501.

perform significantly better than the statewide average in finding children in PMC real, permanent homes more quickly and in reducing the total number of children in PMC in their jurisdictions.

Conversely, the five courts that do not consistently use these best practices appear not to perform as well on these measures. One jurisdiction, Harris County, has implemented few best practices and continues to have poorer outcomes. Specifically, in Harris County, the overall population of children in PMC is steadily increasing and these children are staying in PMC longer.

Finally, among the studied jurisdictions, although the correlation between practices and outcomes is clear, no such correlation exists between costs and outcomes or between costs and court practices. **In other words, how much a county spends on hearings does not determine how quickly or how many children in PMC find permanent homes.** In fact, courts' implementation of best practices does not necessarily result in higher long-term hearing costs. Evidence shows that jurisdictions using best practices have fewer children in PMC and thus, fewer total PMC hearings, which most likely results in lower total hearing costs.

**While our analysis shows a correlation between child outcomes and judicial best practices, judicial hearing practices represent only one of many contributing factors. Even so, this data strongly suggests that in adopting Texas Appleseed's recommended practices, courts will take an important step towards better serving children in long-term foster care.**

# Texas Children in Long-Term Foster Care: Outcomes, Court Hearing Practices, and Court Costs

## I. Introduction and Background

This white paper is a follow-up to our 2010 report entitled *Improving the Lives of Children in Long-Term Foster Care: The Role of Texas' Courts & Legal System*, which focused on the role of the courts and the legal system in foster care.[6] That report examined court practices and their impact on children in Permanent Managing Conservatorship (PMC) across 15 jurisdictions in Texas.[7]

One of the 2010 report's major findings was the overall lack of urgency in finding permanent homes for children in long-term foster care. Paradoxically and problematically, while Texas' responsibility for the child's life and well-being does not change when a child enters PMC—and only increases over time—the attention paid to the child's case diminishes significantly in many jurisdictions when a child enters PMC compared to when the child was first removed and placed in Temporary Managing Conservatorship (TMC).

To maintain urgency, the 2010 report recommended certain practices for courts to follow in placement review hearings to achieve better outcomes. Some of the key recommended court practices include:

- Judges must recognize their critical part in the PMC process by exercising appropriate judicial oversight.
- One judge should be assigned to a youth throughout the youth's entire duration in PMC.
- Children and youth must be in court.
- Placement Review Hearings should take place as often as necessary, but at a minimum should occur every 4 months.
- In every PMC case, there should be an advocate for the youth. The advocate can

[6] 2010 Appleseed Report, *supra* note 1.

[7] Once the child has been removed, the State has a year, with a possible six-month extension, to resolve the case either by reuniting the family, placing the child permanently with a relative, or adoption before the Texas Department of Family and Protective Services (DFPS) assumes PMC of the child. *Id.* at 5; *see also* TEX. FAM. CODE § 263.401.

be a Court Appointed Special Advocate (CASA) volunteer, who is appointed as a Guardian Ad Litem (GAL) or as a volunteer advocate, or another GAL.

- When children do not already have an Attorney Ad Litem (AAL), one must be appointed or retained when adversarial legal issues arise or there is a conflict among stakeholders.

- Stakeholders such as the child's foster parents must have notice of the placement review hearings so they have the opportunity to attend the hearings.

- Docket schedules must be composed efficiently so that children and stakeholders can attend.[8]

This white paper is an in-depth examination of the child outcomes, court hearing practices, and costs of PMC hearings in selected courts in Texas. Fostering Court Improvement[9] (FCI) provided data that tracked the number of children in PMC and their outcomes in these same jurisdictions over the past 10 years. Texas Appleseed gathered data on court practices and costs via qualitative and quantitative means.

**We focused on PMC hearings in seven jurisdictions: Bexar County, Dallas County, Harris County, Travis County, the Child Protection Court (CPC) of Central Texas (CPC Central Texas), the CPC of Permian Basin[10] (CPC Permian Basin), and the CPC of Northeast Texas (CPC Northeast Texas).** We selected these jurisdictions for two reasons: they are among the 15 jurisdictions studied in the 2010 report and represent both urban and rural counties in Texas. Travis, Bexar, Dallas and Harris Counties are generally urban with larger dockets, while the CPC jurisdictions are comprised of several rural counties, which collectively have smaller dockets.

**Court practices for PMC hearings for children *vary widely* among jurisdictions.[11]** For example, some courts rarely have the child present while others have the child present as often as possible. Other courts never or almost never have a CASA advocate involved in a PMC case, while others always have a CASA advocate or an AAL assigned to the case.

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[8] 2010 Appleseed Report at 16.

[9] Fostering Court Improvement (FCI) is a non-profit organization that analyzes and presents data from the Adoption and Foster Care Analysis and Reporting System (AFCARS) and the National Child Abuse and Neglect Data System (NCANDS) on foster care children and the safety of children at risk of foster care placement broken down by judicial district, county, and child welfare region. See Fostering Court Improvement Website, available at http://fosteringcourtimprovement.org/index.php (accessed Mar. 5, 2012).

[10] *See* note 2.

[11] Infra at Part III; *see also* 2010 Appleseed Report at 65.

**In the jurisdictions studied, our analysis found a *clear correlation* between court practices and outcomes for children in PMC. This correlation points to *the importance of how judges conduct* PMC hearings, what practices they use, and sheds light on *whether Texas Appleseed's recommended practices are "best practices" in PMC cases*.** Two courts in Texas have been following what are referred to in this report as best practices for several years, and one court started regularly adhering to them more recently. Travis County began implementing many of the best practices listed in our 2010 report around 2007. In 2008, it officially became a National Council of Juvenile and Family Court Judges' (NCJFCJ) Model Court by adopting certain court practices and principles, many of which overlap with Texas Appleseed's recommended best practices.[12] The data on outcomes in Travis County since this period shows a marked reduction in the number of children in PMC—a reduction which coincides with the court's changes in practice. Similarly, in 2007, CPC Central Texas began regularly implementing some of the above listed best practices and has seen dramatic results. In 2011, CPC Northeast Texas also began using many of these best practices.

Further, jurisdictions, such as Bexar County, which have implemented some, but not all, of the best practices have seen reductions in their PMC caseload, but not to the degree that Travis County and CPC Central Texas have. **It should be noted that judicial best practices, while strongly correlated with better outcomes, only represent one of many factors that contribute to better outcomes for children in foster care.**

Finally, as the section on costs explains, **counties have varying costs and these costs are not correlated with particular court practices or better outcomes**. In other words, the more a jurisdiction spends on court hearings does not necessarily improve whether or how quickly children find real, permanent homes.

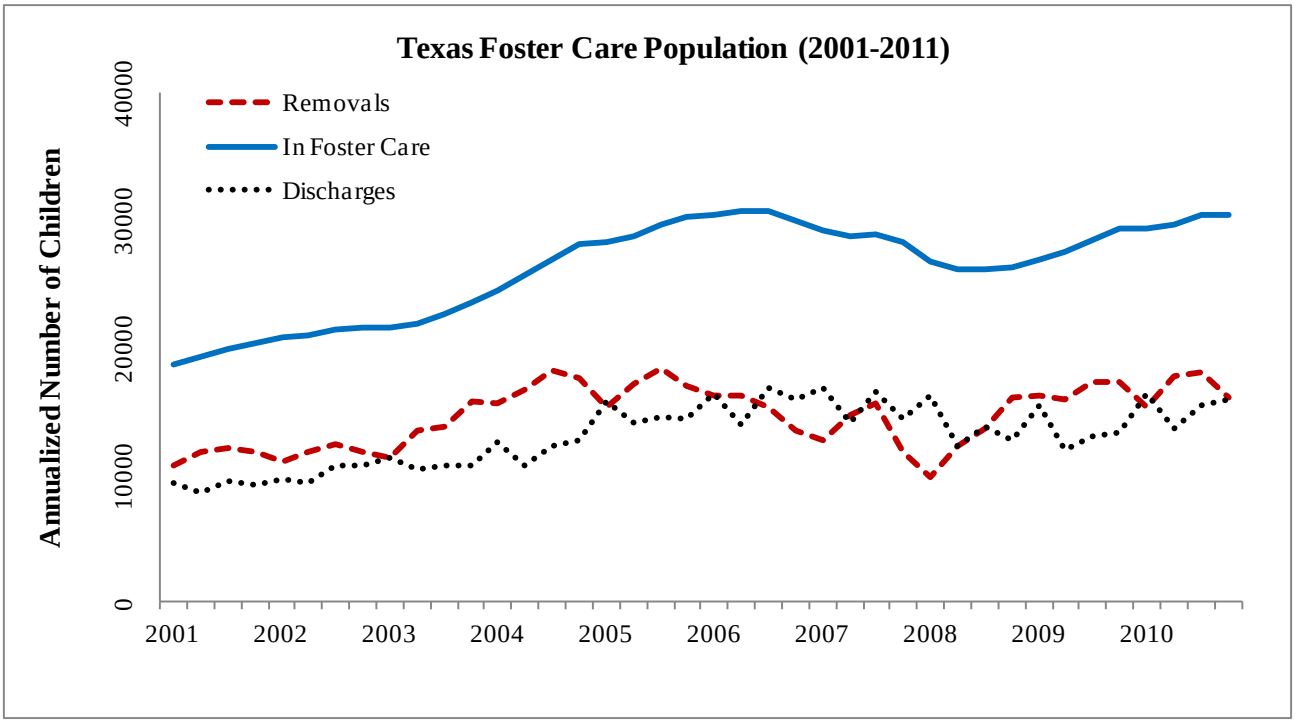
[12] *See* NCJFCJ website on Model Courts program, available at http://www.ncjfcj.org/our-work/dependency-model-courts (accessed Mar. 15, 2012).

## II. Child Outcomes Data: PMC Population over Time

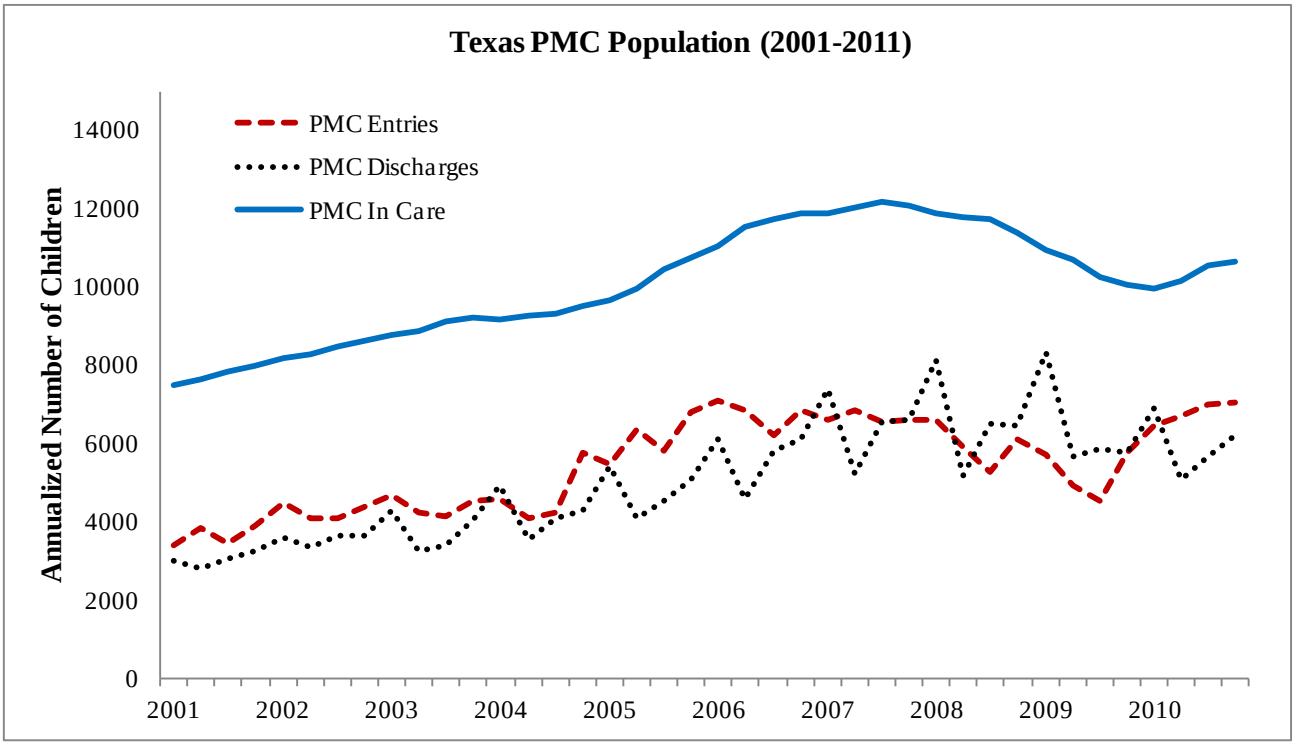
Through FCI's assistance and expertise, we obtained data for each targeted jurisdiction including the number of children in PMC and changes to that number over the past 10 years.

### *A. Jurisdictional Variations in the Size of PMC Populations Over Time*

The graph below shows the number of children in foster care, including those in TMC and PMC, over the past 10 years in Texas as well as the removal and discharge rates.



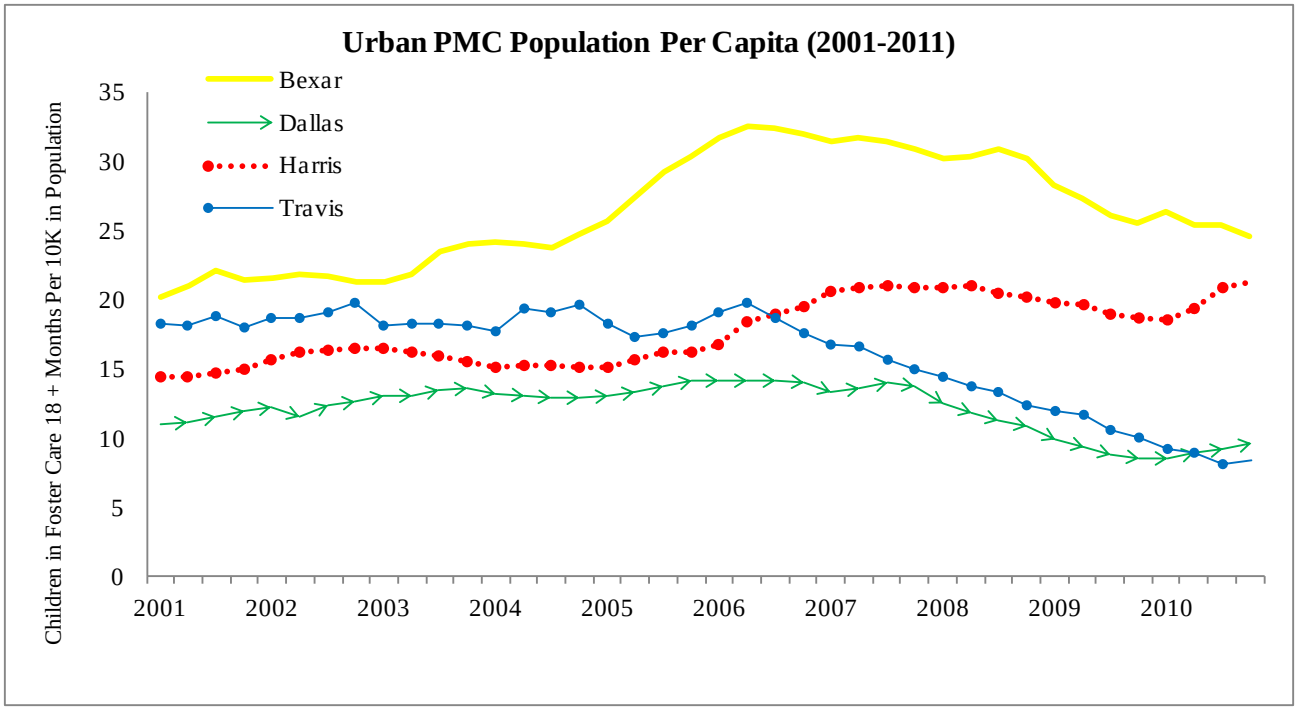

The following graph tracks the growth of the PMC population in Texas for the past ten years, which corresponds with the overall growth of the number of children in foster care.




Both the total number of children in foster care and the total number of children in PMC are increasing statewide; predictably, the number of children in PMC corresponds with the total number of children in foster care and trails it by 18 months—the time it takes for a child to enter PMC.[13] **However, while the total number of children in PMC is increasing throughout the state, when the data is analyzed county by county, a different picture emerges.**

[13] The data from FCI did not differentiate between children in TMC and PMC; rather, the data was separable only by the amount of time a child was in foster care. A judge must enter a final order once the child has been in the state's care for a year, but the judge can postpone the final order for an additional six months due to extraordinary circumstances. In Texas, 60% of the children enter PMC within 12 months while the other 40% enter PMC within 18 months. To focus our analysis solely on children in PMC, FCI analyzed data for children who had been in the state's care for at least 18 months.

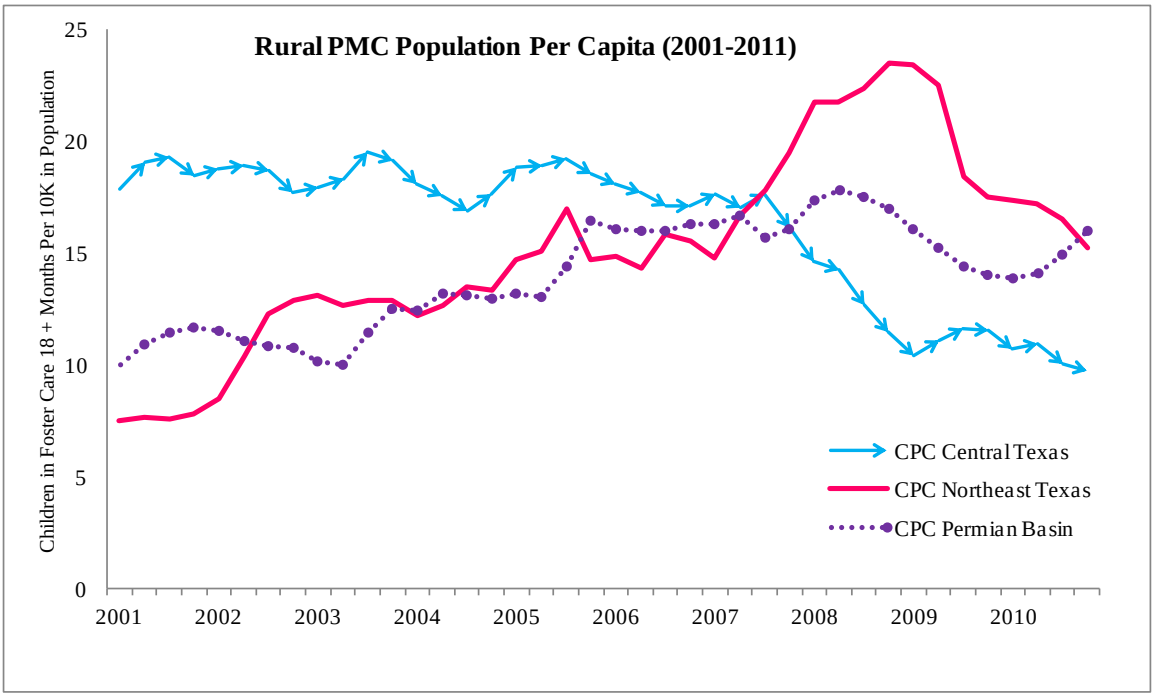
The following two graphs document these differences—the first shows the PMC population among courts in the four urban counties we studied and the second shows the PMC population among courts in the three rural counties we studied.




**The contrast in outcomes is pronounced.** For example, Harris County's PMC population per capita has increased consistently over the past ten years.[14] Dallas County's overall number of children in PMC is also on the rise, but it is comparatively low, which is likely attributable to the county's practice of discharging children to relatives prior to PMC. Travis County has experienced the largest decrease in its PMC population, beginning in 2007 when the judges began reexamining their court practices and regularly implementing certain best practices such as having children in court, engaging the family, and holding both permanency review and follow-up hearings more often. Between 2007 and 2011, the statewide PMC caseload per capita decreased by 15%, while Travis County's PMC caseload per capita decreased by 57%.

[14] To control for differences in population, the data was analyzed on a per capita basis.

As the graph below shows, similar disparities in the size of the PMC population per capita exist between the studied rural counties.




In 2007, CPC Central Texas began reevaluating their court practices and implementing certain best practices with more regularity.[15] The number of children in PMC has similarly and dramatically declined in CPC Central Texas since 2007, which has experienced a 45% decrease in its PMC population per capita. This steady decline in the number of children in PMC corresponds with these changes in practice.

*B. Considerable Variation in Outcomes for Children in Foster Care*

There is **considerable variation between jurisdictions in how long children spend in PMC compared to the statewide average**. The following charts highlight the variation between jurisdictions using different measures: how long children stay in foster care; discharge rates within two years of entering PMC; and the percentage of children exiting foster care at various points.

**The jurisdictions employing best practices are finding permanent homes for**

[15] The results for Travis County and CPC Central Texas are in line with changes in outcomes courts in other states experienced after becoming model courts. According to the NCJFCJ, three of the largest jurisdictions in the nation, Chicago, Los Angeles, and New York, reduced the number of children in care by 50% between 1998 and 2007 since becoming Model Courts. NCJFCJ, *The Model Court Effect: Proven Strategies in Systems' Change* 2 (2009), available at www.ncjfcj.org.

**children in long-term foster care at higher rates and in less time.** As the chart below shows, there are marked differences between jurisdictions in the rate at which foster care children find permanent homes within two years of entering PMC.

| | Discharged to Permanency Within 2 Years of Entry into PMC (2002-2009) | | | | | |
|---|---|---|---|---|---|---|
| | **2004** | **2005** | **2006** | **2007** | **2008** | **2009** |
| **Bexar** | 58% | 54% | 58% | 64% | 68% | 74% |
| **CPC Central Texas** | 61% | 67% | 65% | 66% | 83% | 75% |
| **CPC Northeast Texas** | 52% | 23% | 58% | 50% | 50% | 71% |
| **CPC Permian Basin** | 47% | 38% | 40% | 61% | 69% | 59% |
| **Dallas** | 57% | 53% | 62% | 60% | 71% | 69% |
| **Harris** | 57% | 59% | 54% | 60% | 62% | 64% |
| **All Other Jurisdictions**[16] | 52% | 56% | 59% | 60% | 67% | 70% |
| **Travis** | 67% | 72% | 73% | 84% | 73% | 87% |

The percentage of foster care children finding permanent homes within two years increased dramatically between 2004 and 2009 in many jurisdictions around the state; interestingly, some jurisdictions made more sizeable gains than others. Travis County went from finding permanent homes for children within two years for 67% of children to 87% of children five years later—a 20% change. CPC Central Texas increased its rate by 14% (from 61% in 2004 to 75% in 2009), CPC Northeast Texas by 19% (from 52% in 2004 to 71% in 2009), and Bexar County by 16% (from 58% in 2004 to 74% in 2009). Other counties made smaller gains over the same seven-year period, including Dallas County (from 57% in 2004 to 69% in 2009); Harris County (from 57% in 2004 to 64% in 2009); and CPC Permian Basin (from 47% in 2004 to 59% in 2009). The average increase for all other jurisdictions in Texas over this time period was 18%.

The chart below presents data showing how many children are in long-term foster

[16] "All Other Jurisdictions" is the average for the Child Protection Courts and counties not included in our targeted analysis.

care by jurisdiction in 2007 and 2011 and the rate at which 16-year-olds in PMC find permanent homes before they reach age 18. It also shows how many of 16-year-olds from this same population whose parents' righs have been terminated find real, permanent homes before they reach age 18.

| **Federal Measures of Long-Term Foster Care Exits to Permanency, Children and Family Services Review Composites** | | | | | |
|---|---|---|---|---|---|
| | **PMC Population (In Care 18+ Months)** | | | **Both Parents' Rights Terminated at Age 16, Exit System by Age 18** | |
| | **FFY[17] 2007** | **FFY 2011** | **Change** | **FFY 2007** | **FFY 2011** |
| **Bexar** | 1,449 | 1,174 | -19% | 10.3% | 26.1% |
| **CPC Central TX** | 215 | 131 | -39% | 21.4% | 30% |
| **CPC Northeast TX** | 84 | 89 | +2% | 0/1 | 4/5 |
| **CPC Permian Basin** | 185 | 195 | +5% | 1/7 | 0/3 |
| **Dallas** | 943 | 684 | -27% | 5.7% | 12.8% |
| **Harris** | 2,264 | 2,630 | +16% | 16.5% | 14.1% |
| **All Other Jurisdictions** | 6,396 | 5,562 | -13% | 9.6% | 26.7% |
| **Travis** | 397 | 229 | -42% | 22.2% | 47.4% |

**The above chart clearly documents that courts employing certain best practices such as having children in court and holding hearings more frequently are reducing their PMC populations at rates exceeding other jurisdictions.** For example, CPC Central Texas and Travis County have the largest reductions in their PMC populations at 39% and 42%, respectively, between FFY2007 and FFY2011. These jurisdictions are achieving permanency at higher rates for 16-year old legal orphans, children whose parental rights have been terminated, before either group ages out. Travis County finds permanent homes for 47.4% of 16-year-old legal orphans, well above the average for all other jurisdictions.[18] These gains and rates of permanency are striking,

[17] FFY is the abbreviation for "Federal Fiscal Year."

[18] In addition, CPC Northeast Texas has increased its rate of permanency for 16-year olds in care for 12+ months whose parental rights have been terminated from 0 of 1 in 2007 to 4 of 5 in 2011. Judge Robin

given that these foster care children are often viewed as among the children for whom it is hardest to find permanent homes.

As the chart below demonstrates, children are spending widely varying amounts of time in care depending on their jurisdiction—both in terms of the total number of days in care and the number of days in care exceeding 18 months.

| **Days Spent in Foster Care Without Permanent Families, By Jurisdiction and Compared to the Statewide Average (FFY2009-FFY2011)** | | |
|---|---|---|
| | **Days In Care As % of State Average** | **Days In Care Beyond 18 Months As % of State Average** |
| **Statewide Average** | 100% | 100% |
| **Bexar** | 171% | 181% |
| **CPC Central TX** | 80% | 75% |
| **CPC Northeast TX** | 161% | 122% |
| **CPC Permian Basin** | 112% | 103% |
| **Dallas** | 74% | 63% |
| **Harris** | 114% | 138% |
| **All Other Jurisdictions** | 93% | 89% |
| **Travis** | 82% | 65% |

Dallas County, Travis County, and CPC Central Texas are finding permanent homes for foster care children in less time than the statewide average, while children are spending more time in foster care in Bexar County and Harris County.

In summary, while the overall PMC population in Texas is decreasing, there are striking jurisdictional differences—in some jurisdictions, the decreases are significantly more pronounced than the statewide average while in other jurisdictions, the PMC population is actually increasing. As the charts above show, there are marked differences in how quickly and whether jurisdictions find permanent homes for foster care children in

Sage started implementing many of the best practices in CPC Northeast at the beginning of her tenure in 2011.

PMC. As the section below outlines, these jurisdictional differences are strongly correlated with courts' practices surrounding hearings for children in long-term foster care.

## III. A Qualitative Analysis of Widely Varying Court Practices

**To determine courts' hearing practices for PMC cases,** we conducted a qualitative analysis consisting of interviews and observations in the targeted jurisdictions.[19] We observed over 100 PMC hearings before more than 10 judges at least twice in each jurisdiction. We then used this information to inform our analysis of FCI's outcomes data presented in the preceding section.

**A PMC hearing in one court may look nothing like a PMC hearing in another court.** For example, a hearing in Harris County or Dallas County may include a judge, a bailiff, a district attorney, and an Attorney Ad Litem (AAL) and last two minutes. Conversely, a hearing in Travis County or CPC Central Texas may feature a judge, a clerk, a district attorney, the foster parent(s), a CASA advocate, and include the child and last 30 minutes. In fact, whether the foster child is present at the PMC hearing varies considerably between courts.

The tables below indicate the frequency with which children attend PMC hearings in particular jurisdictions.

| **Child in Attendance at PMC Hearings** | | |
|---|---|---|
| **Less than 25% of Hearings** | **40-50% of Hearings** | **More than 75% of Hearings** |
| Bexar County<br>Dallas County<br>Harris County<br>CPC Permian Basin | CPC Northeast Texas | CPC Central Texas<br>Travis County |

Similarly, as the following chart shows, the frequency with which a CASA advocate is present varies tremendously. **Certain jurisdictions almost always have a CASA advocate assigned to a child in PMC, while other jurisdictions almost never have them.**

[19] Texas Appleseed and its pro bono partners did a qualitative analysis of the PMC process by observing PMC hearings and interviewing stakeholders, such as judges, clerks, court coordinators and AALs, in the targeted jurisdictions. We conducted our analysis in the summer and fall of 2011.

| CASA Advocates in Attendance at PMC Hearings | | | |
|---|---|---|---|
| **Less than 25% of Hearings** | **Between 25-50% of Hearings** | **More than 50% of Hearings** | **More than 75% of Hearings** |
| Bexar County<br>Harris County<br>CPC Permian Basin | CPC Northeast Texas<br>Dallas County | CPC Central Texas | Travis County |

The following chart shows how often each jurisdiction schedules permanency hearings.

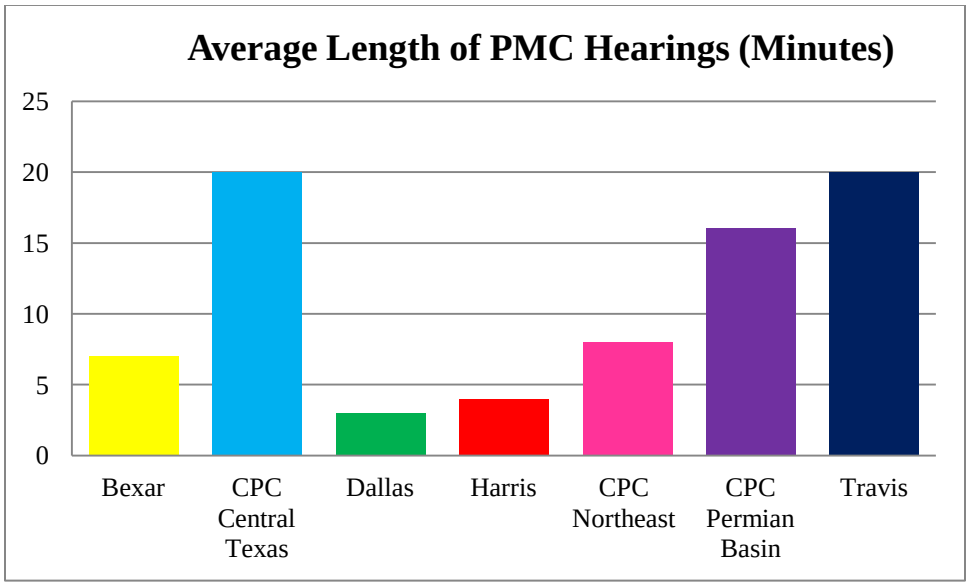
| Frequency of PMC Hearings | |
|---|---|
| **Every 4 Months** | **Every 6 months** |
| CPC Central Texas<br>CPC Northeast Texas<br>Travis County | Bexar County<br>Dallas County<br>Harris County<br>CPC Permian Basin |

State law requires placement review hearings every six months, but the best practice of holding hearings at least every four months seems to move cases forward more effectively and maintains the focus on finding permanent homes for children in foster care.[20]

In addition, some courts schedule follow-up hearings after the regularly scheduled placement review hearings if there is a particular need. It is common practice for CPC Central Texas, Travis County, and CPC Northeast Texas to conduct follow-up hearings as soon as one month after a hearing for a child in PMC. Other jurisdictions, such as Bexar County, Dallas County, Harris County, and CPC Permian Basin, rarely or never schedule follow-up hearings much less frequently and instead, usually only hold the statutorily required hearings every six months.

[20] TEX. FAM. CODE § 263.501; 2010 Appleseed Report at 18.

As the graph below indicates, **the average length of a PMC hearing varies considerably between courts.**




Travis County and CPC Central Texas have the longest hearings, each averaging 20 minutes. Harris and Dallas Counties had the shortest hearings, averaging four and three minutes, respectively.

**Not surprisingly, longer hearings correspond with a greater level of interaction among a larger number of involved parties.** In these instances, the child is almost always present and the judge directly engages the child. Further, the judge usually actively discusses the case and asks questions of others in attendance including any foster parents, kin or fictive kin[21] of the child, GALs or CASA advocates, and AALs, if they are present and/or appointed. In contrast, shorter hearings have very little interaction between the judge and the parties present, which is usually limited to the district attorney, a CPS caseworker, and at times the AAL. The child is not usually present at these hearings.

Examining the data on outcomes from FCI and our own investigation of court practices, we found courts that schedule hearings more frequently than every six months, have more frequent follow-up hearings, and engage the child at these hearings seem to have better outcomes than courts where these court practices are not followed. **Together,**

[21] Fictive kin have a longstanding and significant relationship with the child in foster care or the child's family. Examples include a godparent or someone considered to be an aunt or uncle, even though the person is not related to the child. TEX. FAM. CODE § 6322.13.

**these best practices have a demonstrated impact—foster care children experience a faster transition out of PMC into a real, permanent home.**

## IV. Hearing Costs Are Not Correlated with Court Practices or Child Outcomes

The correlation between outcomes and judicial practices is clear. **Equally interesting is our finding that more expensive hearings do not necessarily lead to better outcomes for foster care children.**

For each jurisdiction, we examined certain costs associated with PMC hearings. Our cost analysis is not a "to the penny" analysis, but rather provides an overview of principal cost components in six of the seven study jurisdictions.[22] These costs include three of the four main hearing costs: court personnel, district or county attorneys, and AALs; it does not include any Department of Family Protective Services (DFPS) costs.[23] To ascertain the costs of compensating court staff and district or county attorneys for PMC hearings, we examined salary data for court personnel paid by the county or state. AAL compensation is set in different ways; some counties pay by the hour (sometimes with differing rates for in-court and out-of-court work), while others pay a flat rate. We accounted for these various compensation structures in our analysis.

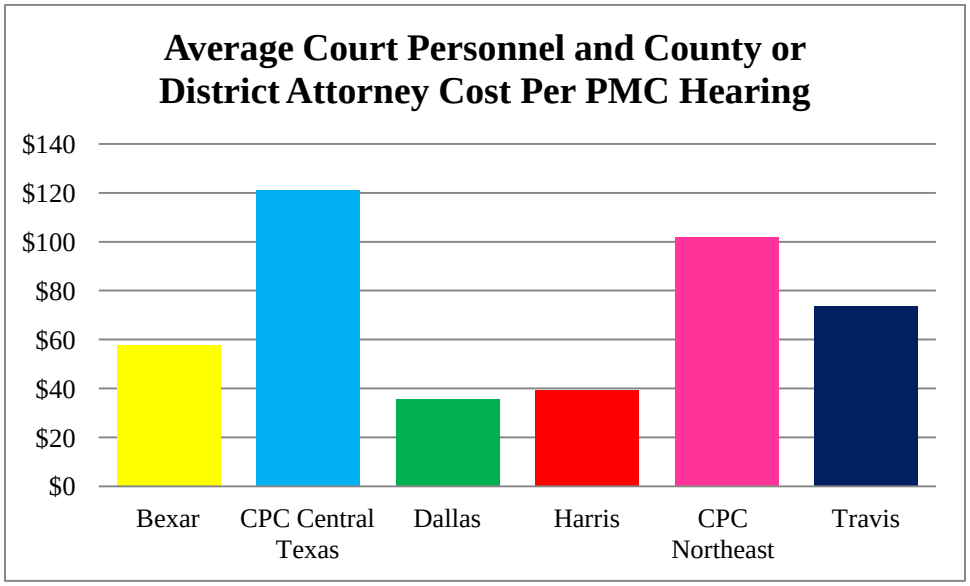
In addition, we analyzed compensation in light of both the costs of PMC hearings themselves and the amount of time spent preparing for PMC hearings. For example, with respect to bailiffs and court reporters, we considered their salaries only with respect to the total number of PMC hearings because it is highly unlikely they work on PMC cases apart from the hearings. However, for judges, clerks, AALs, and district attorneys, we considered their compensation in conjunction with the number of PMC hearings and the amount of time they spent on PMC cases outside of PMC hearings.

The following charts break down the specific costs of individual PMC hearings for the six jurisdictions. However, these cost estimates do not account for the total hearing costs for a jurisdiction in that they do not reflect the total number of children in care or the annual number of hearings. Therefore, it is difficult to predict precisely the costs associated with more hearings each year and the costs savings that are recouped as children spend less time in PMC. Jurisdictions with fewer children in care per capita, such as those jurisdictions using best practices, would most likely have lower total hearing costs.

[22] As noted, our cost analysis does not include the Child Protection Court (CPC) of Permian Basin.

[23] DFPS was unable to provide cost information such as the cost of CPS caseworkers, CPS supervisors, and, in some cases, CPS attorneys.

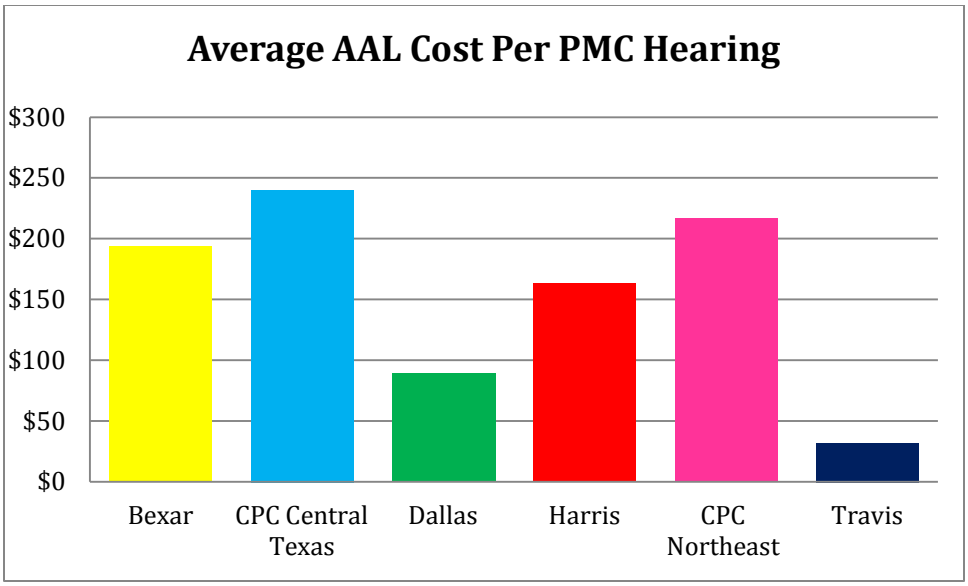
The below chart displays the cost of the court personnel and the district or county attorney for each PMC hearing. Depending on the jurisdictional practices, court personnel can include: the judge, bailiff(s), the court clerk, the district or county attorney, DFPS attorney, the court coordinator, and the court reporter.




**Each jurisdiction has different people who consistently participate in its PMC hearings.** CPC Central Texas and CPC Northeast have the highest cost for court personnel and district attorneys at approximately $120 and $100, respectively. Travis County has court personnel costs averaging around $75; Dallas and Harris Counties have the lowest court personnel costs at about $35 and $40, respectively.

The following graph shows the average cost of having an AAL at a PMC hearing.[24] It accounts for both how much it costs to have an AAL at a PMC hearing and how often AALs are used at PMC hearings in a particular jurisdiction.

[24] To determine AAL costs, we interviewed five AALs in each of the four urban jurisdictions and two AALs in each of the included Child Protection courts. They were selected randomly in that we approached AALs while we did our court observations. This approach allowed us to contact AALs of varying quality and engagement.



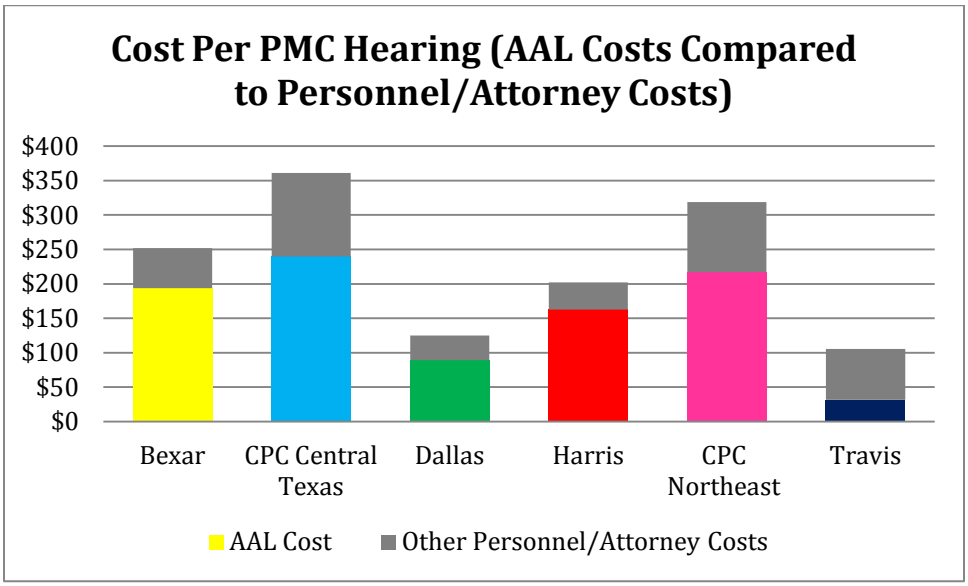

**AAL rates vary considerably between counties.** In CPC Central Texas and CPC Northeast Texas, the average cost is around $240 and $215, respectively. The cost of an AAL at a PMC hearing in Harris County was around $150, and in Dallas, it was around $100. In contrast, the cost of an AAL in Travis County was under $50, largely due to the low utilization rate of AALs in Travis County.

**Similarly, AALs compensation structures are specific to each jurisdiction.** For example, in Bexar County, AALs receive a flat fee of $100 per hearing, a flat fee of $75 for attendance at a staffing meeting prior to the hearing, and $20 per hour for any additional preparation for the hearing. On average, AALs in Bexar County are paid $194 for their work in PMC hearings and most PMC hearings include an AAL. In contrast, in Travis County, AALs are paid $75 per hour for any hearing preparation and for the hearing itself and most PMC hearings do not include an AAL.

**The above costs account for these differences in how often AALs are utilized in each county.** In Travis County, AALs on average spend 3.33 hours in hearing time and preparation totaling about $250 per hearing, but they are only utilized in around 15% of PMC hearings which brings the average AAL cost down significantly. Harris County has a differentiated fee structure whereby AALs are paid $150 per hour in court and $80 per hour out of court. Given the average amount of time AALs charge for each type of work and their utilization in Harris County (at about two-thirds of hearings), the average weighted cost of AALs is around $175.

**Given these varying compensation structures and rates at which AALs are utilized in each county, it is hard to make comparisons between counties; however it is clear that AAL costs currently drive the cost of PMC hearings in most**

**jurisdictions.**[25] This fact is clearly reflected in the chart below, which shows the average cost of a PMC hearing in each of the jurisdictions we examined, with the costs broken out by the costs of an AAL and the costs of other court personnel and attorneys.




The costs of hearings in Bexar County, CPC Central Texas, and CPC Northeast Texas are $250 and above, while Travis County and Dallas County average about $100 and $125 per hearing, respectively. The average hearing cost in Harris County is around $200.

**In examining the data in the graph above, there is a direct correlation between the length of and level of interaction at hearings and non-AAL costs.** For example, CPC Central Texas and CPC Northeast Texas are both implementing best practices. As such, both courts engage the child in court when possible as well as the child's advocate. In these two jurisdictions, hearing costs are dominated by AAL costs, but their non-AAL costs are higher because their hearings are longer than other jurisdictions. Travis County's hearing costs are primarily attributable to court personnel because while Travis County uses best practices, which increases hearings' length, it does not utilize AALs as frequently for PMC hearings, thereby bringing the costs down.

[25] It is important to note that AALs and GALs play a very important role in advocating for and finding a permanent home for children in foster care.

## V. The Need for Adequate Judicial Resources

Sufficient judicial resources are critical to effective court practices. Jurisdictions not currently implementing best practices will likely require additional resources to make improvements, at least in the short-term. Ensuring that all issues are thoroughly explored at each hearing requires more time and scheduling follow-up hearings where necessary increases the total number of hearings on the docket. Longer hearings with all the various stakeholders, including the child, may also require systemic changes such as revising the docketing system and schedule.

**Even so, courts' implementation of best practices will not necessarily result in higher long-term hearing costs and over time, it may lead to lower overall hearing costs.** As this report shows, jurisdictions using best practices have fewer children in care per capita and thus, fewer total PMC hearings. Among the larger urban jurisdictions, Travis County has the fewest children in PMC, with 9 of every 10,000 children, compared to Bexar and Harris Counties, with 25 and 21 of every 10,000 children in PMC, respectively.[26] Although implementing new judicial practices may initially require more time and resources, over time, as best practices are implemented, the number of children in long-term foster care will decrease, relieving courts of the initial burden of additional hearings and longer hearings. These reduced caseloads will most likely result in lower total hearing costs.

Another significant factor is the cost to the state in caring for children in long-term foster care. For each month a child is in substitute care, the state pays an estimated $1,900 for the child's care.[27] The state bears this expense with federal matching funds. If children could be moved into permanent homes more quickly, resulting in fewer children in long-term foster care overall, both the state and federal governments would realize substantial cost savings.

However, a jurisdiction whose resources are already stretched given their caseload and current practices will be hard-pressed to implement new practices without additional resources. Jurisdictions with larger caseloads and relatively fewer judges already have less time available to engage children and other stakeholders. Therefore, spending more time engaging a child in one case may mean there is less time available to dedicate to other children. Because of these realities facing courts, making significant changes to hearing practices likely requires more than additional resources, it may also require

[26] These numbers are current as of the end of 2011.
[27] Texas Department of Family and Protective Services, Data Book 2011 at 122 (2011).

closely examining the current system and making structural changes. In addition, these jurisdictions might benefit greatly from designating specialized PMC courts.

While additional resources are essential in many jurisdictions to enact changes, once best practices are implemented and children find permanent homes more quickly, the need for additional resources should subside and in time, less overall resources should be required.

## VI. Conclusion

While the scope of our analysis focused only on seven jurisdictions, the findings have far reaching implications. **The urban and rural jurisdictions employing best practices move children more quickly out of PMC and into safe, permanent placements.**

**The correlation between court hearing practices and outcomes in the jurisdictions examined here is clear.** Implementing many of the best practices—including engaging the child in person at hearings, ensuring the child has an advocate, and scheduling more frequent review hearings—points to better results for foster care children in PMC. With an upfront investment in more frequent hearings where children and their advocates are engaged in the process, real gains can be made. **Children will find permanent homes in less time when courts can devote the necessary time and resources to make children in PMC as much of a priority as children in earlier stages of the foster care system.** While there are other factors that contribute to better outcomes, best practices in the courtroom are clearly an important component.

**Further, these best practices do not necessarily translate to higher costs.** In other words, there is no correlation between costs and outcomes or between costs and practices. **Armed with this data, Texas Appleseed is confident that courts' implementation of these best practices is an important step to better serving children in long-term foster care.**