

# **WHEN CPS COMES INTO YOUR FAMILY LAW CASE**

**DENNIS M. SLATE**, *Houston*  
Slate & Associates

*Co-author:*  
**KARLENE D. POLL**, *Houston*  
Slate & Associates

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**CURRICULUM VITAE  
OF  
DENNIS M. SLATE, J.D.**

1635 Dunlavy  
Houston, TX 77006  
www.Slatelaw.com  
281-476-9447

**Employment:**

|                  |  |
|------------------|--|
| 2001 to present: | SLATE AND ASSOCIATES<br>Attorney/Owner       |
| 2008 to present  | Associate Municipal Judge – Pearland         |
| 2008 to 2013     | Associate Municipal Judge – Houston          |
| 1991 to 2017     | Retired with Rank of Major, US Army Reserves |

**Education:**

Received J.D. University of Houston (2000)  
Received B.S. in Political Science Texas A&M (1997)

### Certificates:

Licensed by Texas Supreme Court (2001)  
Admitted to the U.S. District Court for the Southern District of Texas  
Super Lawyer 2018, 2019, 2020, 2021, 2022  
Top Family Lawyer 2013, 2014, 2015, 2016, 2017, 2018, 2019, 2020  
Top Young Lawyer in Houston 2010/ 2011  
Texas Rising Star 2010, 2012, 2013, 2014,

**Professional Affiliations:**

State Bar of Texas, Member  
Pasadena Bar Association, Member, Past President  
Gulf Coast Family Law Specialist, Executive Board Member 2017  
Texas Academy of Family Law Specialist

**State Bar Committees:**

Texas Family Law Pattern Jury Charge Editing Committee,  
member 2014-2017; 2019- Present

### Specializations:

Board Certified, Family Law  
Board Certified, Child Welfare Law

### **Presentations:**

*Texas Family Law Issues for Military Members and Dependents*  
Texas Joint JAG Conference, August 2016

*Preparing to Win a 262 Hearing*  
Brazoria County Ad-Litem CLE, November 2017

*How to Prepare for and Beat CPS*

San Antonio Child Welfare Conference 2019  
*How to Prepare for and Beat CPS*  
Family Defense Lawyers of Texas Year in Review,  
November 2019  
*How to Prepare for and Beat CPS*  
Fort Bend County Family Lawyers Annual CLE,  
September 2019  
*Strategies For Taking on CPS Cases*  
State Bar of Texas Advanced Trial Skills for Family  
Lawyers, December 2020  
*Preparing for a 262 Hearing*  
Brazoria County Bar Association,  
December 2021  
*Defending a CPS case and Appeal*  
Texas Association of Family Defense Attorneys Annual  
CLE; June 2022

**Notable Case Results:**

CPS Sanctioned \$34,000 for wrongfully removing twin 6-week old girls. **April 2011**

Represented a Father who was awarded a 2.1 million dollar verdict against his ex-wife who defamed him on Facebook and her online blog in an attempt to win custody of their daughter. Father awarded Managing Conservatorship of the child. **April 2015**

CPS Sanctioned \$27,500 for wrongfully removing a child. **September 2016**

CPS Sanctioned \$127,000 for wrongfully removing two children and then lying about the reasons for removal while under oath. **October 2018**



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## WHEN CPS COMES INTO YOUR FAMILY LAW CASE

There are no more dreaded words for a parent than “CPS Investigation.” The anxiety is compounded when there is a pending divorce or SAPCR or even an ex-spouse in the wings. So: what do you do when you get that frantic call from your client? This paper provides an overview and tips for navigating a CPS investigation and/or suit. Numerous resources are also appended here, including sample requests for discovery from CPS that I have used in the past as well as certain relevant Texas Family Code provisions.<sup>1</sup>

### I. CPS INTAKE

The identity of a person making a referral to CPS is confidential.<sup>2</sup> So, often, that first call or visit comes out of the blue and possibly with no context. For example:

- CPS may go to a child’s school to interview the child, which it is allowed to do without advance permission or consent of a parent<sup>3</sup>;
- CPS may show up at your client’s home late in the day, reducing the chance that the parent can readily reach you before CPS requests the parent sign some kind of agreement;
- Your client might hear from CPS for the first time after seeking medical treatment for his or her child because someone at the hospital has a concern for an unexplained injury.

Whatever the scenario, based upon information it gathers, CPS can open an investigation against the parent, and it can file suit for conservatorship of the child. Typically, if there is a pending divorce or SACPR, CPS will not file suit until that other litigation is resolved. This, however, does not prevent an investigation going forward.

### II. TEXAS FAMILY CODE §262.201: YOUR STARTING PLACE

In an emergency, CPS can remove a child from a parent immediately with no notice. TEX. FAMILY CODE §262.101 (removal with court order); TEX. FAMILY CODE §262.105 (removal without court order). Such removal must be supported by an affidavit by a person with personal knowledge about the immediate need to

protect the child. TEX. FAMILY CODE §262.101; TEX. FAMILY CODE §262.105. CPS’s ultimate authority to keep the child is found in section 262.201, which governs the adversary hearing.

***\*Understanding Section 262.201’s provisions is the most important step in navigating any CPS proceeding, whether suit is filed or not. This is because this section defines ultimately what power CPS has to maintain conservatorship.\****

The adversary hearing must be held within 14 days of a child’s removal. TEX. FAMILY CODE §262.201(a). The court **must** order return of the child “unless the court finds sufficient evidence to satisfy a person of ordinary prudence and caution that:

- “there was a danger to the physical health or safety of the child ... which was caused by an act or failure to act of the person entitled to possession and for the child to remain in the home is contrary to the welfare of the child”;
- “the urgent need for protection required the immediate removal of the child and reasonable efforts, consistent with the circumstances and providing for the safety of the child, were made to eliminate or prevent the child’s removal”; and
- “reasonable efforts have been made to enable the child to return home, but there is a substantial risk of a continuing danger if the child is returned home”

TEX. FAMILY CODE §262.201(g). If the court does not order return of the child, the court must place the child with another “parent, managing conservator, possessory conservator, guardian, caretaker, or custodian entitled to possession did not cause the immediate danger to the physical health or safety of the child or was not the perpetrator of the neglect or abuse alleged in the suit.” TEX. FAMILY CODE §262.201(g-1).

These individual elements are discussed below, *infra* Sec. V.A.2, but CPS’s burden, and the court’s obligation, under section 262.201 should inform all of your decisions throughout a CPS proceeding.

### III. THE INVESTIGATION

CPS generally has 60 days to conduct its investigation into a referral for abuse or neglect.<sup>4</sup>

responsible for dubious or false referrals, you can request that the records related to the referral source be submitted unredacted in-camera.

<sup>3</sup> CPS Handbook 2244.32.

<sup>4</sup> TEX. FAMILY CODE §261.3018(b).

<sup>1</sup> The entire CPS Handbook (referenced throughout this paper), along with 2022 updates, is available at <https://www.dfps.state.tx.us/handbooks/CPS/>.

<sup>2</sup> CPS Handbook 2210; 40 TAC §700.203; TEX. FAMILY CODE §261.101(d). That said, if there are numerous referrals, and your client suspects an ex or someone else of being

**A. Immediately put CPS on notice that your client is represented**

The very first thing you should do as counsel when you get that call is send CPS a “notice of representation letter” that specifically requests notice be given for any emergency hearing. This ensures that CPS does not just go to court to get an *ex parte* order of removal without your client there.

**B. Record everything**

Any and all communications between you or your client and CPS should be documented. Audio recordings should be made of all calls and visits. Written documentation should be made of all communications with you, your client, or collaterals that CPS reaches out to. There is a reason that when you email a difficult question to a CPS caseworker, they respond with a call rather than an email.

**C. Conduct Discovery**

You should serve subpoenas to the caseworker for CPS records and all their communications with parties, ad litem, each other, etc.<sup>5</sup> To accomplish this, ask the caseworker to tell you where they will be, serve them, call region counsel and tell them you served caseworker and want to provide them a copy of subpoena. If you cannot get caseworker to reply, call their supervisor. If do not know who the supervisor is, call main number and tell them child’s name and ask for supervisor information. If necessary, then go to the Program Director or Regional Counsel.

Regardless of whether your service attempts are successful at lower levels, always make sure a copy of any subpoena is provided to Regional Counsel and let them know details such as the court date. This will keep your subpoena from just being sent to records department, where you will wait several months and have half the documents come back with black marker liberally applied to the important things.

**D. Send CPS information about your client**

As soon as possible, provide CPS information countering the bases for its allegations. Depending on the allegations, this could include pediatric medical records, school records, and contact information for family members and friends that are familiar with your client and the child. Anything relevant should be part of CPS’s investigation, but you do not need to wait for it to request the information. Put it in front of them.

**E. Steps short of CPS removing a child**

Short of complete removal, and whether or not it has filed a case, CPS generally requests the parents sign a Family Service Plan or Parental Child Safety Placement in lieu of removing the child.<sup>6</sup> Neither prevents CPS from actual removal, but they do reflect that CPS believes these measures are sufficient to protect a child.

**1. Family Based Service Plan**

CPS often asks a parent to immediately sign a service plan (Family Based Safety Services, i.e., “FBSS”) as an alternative to removal.<sup>7</sup> Obviously, parents are anxious to cooperate and will sign whatever is placed in front of them. Yet, as their counsel, it is important to note that parents have the absolute right to object to the provisions of a service plan and that requesting one be signed can be a tactic used by CPS because it cannot meet the standard under section 262.201, discussed above, justifying removing and keeping the child.

The “philosophy” behind such plans is articulated in the CPS Handbook.

The FBSS program is child safety centered and family focused. The safety and health of children is always the paramount concern when providing services that prevent removal of the child from the home. At any point, if staff determine that the safety of the child can no longer be ensured, a plan for the child’s safety must be implemented immediately.

Most families who are struggling to provide a safe and stable environment for their children want help and can change. FBSS staff work in partnership with parents, children, and communities to prevent children from entering into foster care. FBSS services are time-limited, tailored to family needs, culturally sensitive, and focus on the strengths of the family. FBSS staff provides services in a manner that respects the fundamental right of the parents to control the education and upbringing of their children.<sup>8</sup>

Yet service plan typically include the kitchen sink, regardless of the specifics of the allegation against the client, including those that can impact an ongoing divorce or SAPCR between parents. These generally include, at a minimum:

<sup>5</sup> App. A. contains examples of discovery to the CPS. App. B contains examples of a records request to CPS and a subpoena for Child Abuse Specialist medical records.

<sup>6</sup> App. C contains samples of both.

<sup>7</sup> CPS Handbook 2400.

<sup>8</sup> CPS Handbook 12110.

- Provide evidence of regular income;
- Attend, participate, and complete protective parenting classes;
- Maintain appropriate, stable, and safe housing free of drug use or criminal activity;
- Maintain consistent contact with the caseworker;
- Complete a drug and alcohol assessment and follow all recommendations;
- Sign a release for CPS to access drug and alcohol assessment records;
- Attend AA or NA meetings each week;
- Submit to random drug testing immediately when ordered;
- Attend, participate, and complete a psychological evaluation, and follow all recommendations from an approved provider; and
- Sign an authorization for release of medical and mental health records.

Why a problem in your ongoing family law case? Because in your client's zeal to cooperate, he or she is agreeing to insanely private and potentially prejudicial disclosures to their ex. As three of the Texas Supreme Court justices recently noted related to an order for participation and releases related to therapy:

Much could be said about the Department's apparent process of *mandating* counseling, *choosing* the counselor for the parent, requiring the parent to sign releases of records from the counselor, and then having the counselor *testify against the parent* at trial. The Department even prevailed below on the argument that Father was not sufficiently "open" in these "counseling sessions"—or were they depositions? The court of appeals relied on the Department's testimony that it "considered [the counseling] requirement inconclusive or incomplete" because it determined that counseling had been "unsuccessful," even though Father literally complied with the terms of the service plan by completing his required counseling sessions. 627 S.W.3d 662, 670. The Department has abandoned that argument here, and wisely so, as it would mean that parents are forced to be forthcoming with a counselor to the Department's satisfaction, even though anything they say can and will be used against them. Parents too unsophisticated

to understand the legal process might freely tell the counselor all kinds of things any lawyer would beg them not to say to a potentially hostile witness. The more savvy parent may clam up, knowing their words can be used against them. But that only causes the Department to call the counseling "unsuccessful." I would have thought that "successful" counseling is much more likely if the parent can trust the counselor to maintain confidentiality. If, however, the Department's desire is to get another set of eyes and ears on the parent in an atmosphere where the parent is more likely to let his guard down, then its approach to "counseling" makes perfect sense.<sup>9</sup>

Likewise, "no showing" for a drug-screening test—whatever the reason (pressing work or life commitments sound familiar?)—counts as a positive result, *regardless* of whether your client is even alleged to have a substance-abuse problem. There is also a very subjective component to many of the other service-plan requirements. This matters. Did your client make meaningful enough effort? Do the providers CPS has chosen believe your client meaningfully participated? The conclusions to these questions can make all the difference in a CPS or other family-law case. For all of these reasons, you and your client should be pushing back on any requirements that are not directly tied to whatever allegation has been made in a referral.

## 2. Parental Child Safety Placement

A PCSP is an alternative to a family-service plan. CPS's handbook describes this as a temporary solution when ostensibly a child cannot be safely at home:

A Parental Child Safety Placement (PCSP) is a temporary, short-term placement that should last no longer than 60 days. A PCSP is made by a parent. A caseworker must only consider a PCSP as an option if, after assessing dangers in the child's home, protective factors, and household strengths, the caseworker determines:

- the child cannot safely stay with a parent; or
- the placement is needed to protect a victim from a sibling perpetrator.

<sup>9</sup> *In re J.W.*, No. 19-1069 at 21,n.16 (Tex. 2022) (Blacklock, J., joined by Devine and Busby, J.J.).

A PCSP should only be considered when all other options to keep the child safe in his or her own home, or with a parent, have been explored.<sup>10</sup>

A PCSP requires the child at issue be moved to a relatives or friend's home. Often, these contain requirements that have nothing to do with safety of a child. Parents may be limited under such a plan to a few hours a day at an arbitrary time. Mother still nursing? Does not matter. Child craves more time with parent? Does not matter. Caregivers that have stepped up are overwhelmed without more allowed assistance from parent? Does not matter. Perfectly reasonable solution for selected family member to move into parent's home to supervise during investigation? Does not matter.

Your client needs to be cautious and push back on such a plan being presented by CPS as the "only feasible plan" to keep the child safe. Bottom line, if CPS cannot meet the requirements of section 262.201, you have every right to challenge proposed requirements, and CPS's own manual prohibits coercion to enter a FBSS or PCSP. At the end of the day, CPS knows that section 262.201's standards are the only ones that matter.

#### IV. CPS'S ADMINISTRATIVE DISPOSITION

The general three categories of disposition from a CPS investigation are:

- "Ruled Out,"
- Unable to Determine," or
- "Reason to Believe."<sup>11</sup>

When CPS returns Reason to Believe finding against a parent, he or she has a limited amount of time to challenge the finding. You should send a "Request for Records"<sup>12</sup> to the caseworker or appellate specialist without delay. This should return both written records and any audio or video recordings. If the records reflect recordings were made, but they were not produced, make a second request.

You must also timely submit a Request for Administrative Review of Child Protective Investigations (CPI) Investigation Findings (ARIF).<sup>13</sup> Sending this request immediately will expedite receipt of the records, as the records are sent faster when

requested by the ARIF reviewer (a/k/a resolution specialist) rather than just the attorney.

The requested review takes place in an informal meeting rather than a formal hearing. The requester, however, may submit written materials beforehand and may make statements, provide information, or ask questions in the meeting.<sup>14</sup> The resolution specialist determines, by a preponderance of the evidence, whether the original allegations are supported.<sup>15</sup> The resolution specialist can ultimately uphold, overturn, or alter the disposition, type, or severity of abuse or neglect in CPS's findings.<sup>16</sup>

#### V. WHEN CPS ACTUALLY THREATENS OR FILES A CASE

The path through the court system is independent, although intertwined, with a CPS administrative proceeding. When CPS files a court case, your client is unfortunately battling on two fronts.

*\*At this stage, do not represent more than one person, whether that means both parents, a parent and step-parent, or a parent and another in the home or with access to the child that is the basis of the lawsuit.\**

It is rare that some type of conflict, factual or legal, will not arise between your client and another involved person. You can, and should when appropriate, work with counsel representing another party. But you want CPS to have to fully meet any burden against all parties.

##### A. The Setting in a CPS Case

The Family Code sets forth the stages of a CPS case. The following are the required settings, along with the general deadlines:

- Emergency Hearing (before removal or within 1 business day after)<sup>17</sup>
- Adversary Hearing (within 14 days of removal)<sup>18</sup>
- Status Hearing (within 60 days of temporary orders from Adversary Hearing)<sup>19</sup>
- First Permanency Hearing (within 180 days of temporary orders from Adversary hearing)<sup>20</sup>
- Trial (1 year from temporary orders from Adversary hearing)<sup>21</sup>

<sup>10</sup> CPS Handbook 3210.

<sup>11</sup> CPS Handbook 2281.2, 2281.3.

<sup>12</sup> App. B.

<sup>13</sup> CPS Handbook 1260; A sample is found in App. D.

<sup>14</sup> CPS Handbook 1263.2.

<sup>15</sup> CPS Handbook 1264.

<sup>16</sup> CPS Handbook 1264.

<sup>17</sup> E.g., TEX. FAMILY CODE §262.102, TEX. FAMILY CODE §262.105.

<sup>18</sup> TEX. FAMILY CODE §262.201.

<sup>19</sup> TEX. FAMILY CODE §263.201.

<sup>20</sup> TEX. FAMILY CODE §263.304.

<sup>21</sup> TEX. FAMILY CODE §263.401.

### 1. The Emergency Hearing

At this hearing, CPS is asking for an emergency order permitting it to remove the child, or requesting an order allowing it to keep the child if removed before the hearing. The parents have a right to notice of the hearing, but if CPS files at the beginning of the case, it often represents that there was not time—or it did not have the ability—to notify a parent.

When CPS files a case for conservatorship of a child, it is supposed to be supported by an objective affidavit, TEX. FAMILY CODE §262.101; TEX. FAMILY CODE §262.105.

The affidavit must contain sufficient evidence to satisfy a person of ordinary prudence and caution that the situation meets all the following criteria:

- There is an immediate danger to the child's physical health or safety, or the child has been a victim of neglect, sexual abuse, or human trafficking.
- It is contrary to the child's welfare to remain in the home of the parent or adult from whom the child is being removed.
- The caseworker has made reasonable efforts, consistent with the circumstances of the case, to secure the child's safety and to prevent or eliminate the need for removal.<sup>22</sup>

### 2. The Adversary Hearing

As mentioned previously, CPS has to prove three primary things at the adversary hearing, which must be held within 14 days after removal.<sup>23</sup> *In re Arp*, No. 12-20-00251-CV, 2021 WL 126602, at \*4 (Tex. App.—Tyler Jan. 13, 2021, orig. proceeding) (“To limit the profound detrimental consequences that can result from unjustified emergency removal, the Legislature mandated that a full adversary hearing be held shortly after an emergency removal, so children who are not endangered can be returned to their loved ones as promptly as possible.”).

This hearing is where the real battle usually takes place. Under section 262.201, the child must be returned unless the court makes three findings:

- “there was a danger to the physical health or safety of the child ... which was caused by an act or failure to act of the person entitled to possession and for the child to remain in the home is contrary to the welfare of the child”;**

This raises two separate questions. Has CPS established that there is a sufficient danger to the physical health or safety of the child? If so, has CPS identified who the alleged perpetrator of abuse or neglect is?

The following has been held insufficient to establish the requisite danger:

- Mother is “not currently taking medication for her bipolar disorder, and she experiences anger management issues when not on her medication,” “lack[s] parenting skills,” and has prior CPS cases related to a different child that resulted in termination of parental rights. *In re Allen*, 359 S.W.3d 284, 291 (Tex. App.—Texarkana 2012, orig. proceeding),
- infant was born at home, with assistance of a midwife, had not received any medical care in the first five days, and parents rights to eight children were previously terminated, *In re Cochran*, 151 S.W.3d 275, 280 (Tex. App.—Texarkana 2004, orig. proceeding),
- evidence that children lived in environment where there was a “pervasive system of belief” condoning polygamous marriage and underage females having children did not establish sufficient danger to male children or any female children who had not reached puberty. *In re Steed*, No. 03-08-00235-CV, 2008 WL 2132014, at \*3 (Tex. App.—Austin May 22, 2008) *mandamus denied In re DFPS*, 255 S.W.3d 613 (Tex. 2008).
- CPS's petition alleged an attached affidavit supported denying Father relief under section 262.201, but no affidavit was attached and no evidence presented, *In re Hughes*, 446 S.W.3d 859, 861 (Tex. App.—Texarkana 2014, orig. proceeding),

Whether the alleged perpetrator has been identified is not often the subject of appellate cases, but it is equally important in some circumstances, especially cases involving young children. Rarely will an infant or toddler be in exclusive possession of one person. They are with both parents, grandparents, friends, a nanny or daycare. Yet, with an unexplained injury, CPS will often rely on the parents being “primarily” in possession and argue that because neither parent admits abuse, it somehow does not need to establish a person committed “an act or failure to act.”

This matters for two reasons. First, CPS has a *mandatory duty* to seek removal of a perpetrator rather than removal of a child that is suspected of being abused. TEX. FAM. CODE §262.1015 (“If the

<sup>22</sup> E.g., CPS Handbook 5411.2.

<sup>23</sup> The 14-day requirement, however, is not jurisdictional. *In re E.D.L.*, 105 S.W.3d 679, 687 (Tex. App.—Fort Worth 2003, pet. denied).

Department of Family and Protective Services determines after an investigation that child abuse has occurred and that the child would be protected in the child's home by the removal of the alleged perpetrator of the abuse, the department shall file a petition for the removal of the alleged perpetrator from the residence of the child rather than attempt to remove the child from the residence.”). Second, at the adversary hearing, the court is *required* to place the child with any identified and appropriate caregiver or relative, even if it finds that the child should not be returned to the parent:

(g-1) In a suit filed under Section 262.101 or 262.105, if the court does not order the return of the child under Subsection (g) and finds that another parent, managing conservator, possessory conservator, guardian, caretaker, or custodian entitled to possession did not cause the immediate danger to the physical health or safety of the child or was not the perpetrator of the neglect or abuse alleged in the suit, the court shall order possession of the child by that person unless the court finds sufficient evidence to satisfy a person of ordinary prudence and caution that, specific to each person entitled to possession:

(1) the person cannot be located after the exercise of due diligence by the Department of Family and Protective Services, or the person is unable or unwilling to take possession of the child; or

(2) reasonable efforts have been made to enable the person's possession of the child, but possession by that person presents a continuing danger to the physical health or safety of the child caused by an act or failure to act of the person.....

....

(n) If the court does not order possession of a child by a parent, managing conservator, possessory conservator, guardian, caretaker, or custodian entitled to possession under Subsection (g) or (g-1), the court shall place the child with a relative of the child unless the court finds that the placement with a relative is not in the best interest of the child.

TEX. FAMILY CODE §262.201.

**b. “the urgent need for protection required the immediate removal of the child and reasonable efforts, consistent with the circumstances and providing for**

**the safety of the child, were made to eliminate or prevent the child’s removal”**

Reasonable efforts, short of removal, can take many forms. Generally, it means that the parents were given a service plan or PCSP, discussed *supra* III.E, but CPS claims the parents were not following its terms.

CPS’s refusal to consider an appropriate and available relative is grounds for finding that not all “all reasonable efforts, consistent with the circumstances and providing for the safety of the child, were made to eliminate or prevent the child’s removal”:

In light of testimony that (1) Mother’s grandmother offered to stay in the child’s home and supervise the child, and (2) the home was clean, the child had her own bedroom, and there was food in the home, and (3) that the Department presented no evidence that it made reasonable efforts to protect the child short of removal from the home, we conclude that there is no evidence to support the trial court's finding that there was an urgent need for protection that required the immediate removal of the child or that reasonable efforts were made to eliminate or prevent the child's removal from Mother's home.

*In re K.L.M.*, No. 14-19-00713-CV, 2019 WL 6001170, at \*5 (Tex. App.—Houston [14th Dist.] Nov. 14, 2019, orig. proceeding). The supreme court has likewise recognized that the trial court must explore every alternative before removing children:

On the record before us, removal of the children was not warranted. The Department argues without explanation that the court of appeals’ decision leaves the Department unable to protect the children’s safety, but the Family Code gives the district court broad authority to protect children short of separating them from their parents and placing them in foster care. The court may make and modify temporary orders “for the safety and welfare of the child,” including an order “restraining a party from removing the child beyond a geographical area identified by the court.” The court may also order the removal of an alleged perpetrator from the child's home and may issue orders to assist the Department in its investigation. The Code prohibits interference with an investigation, and a person who relocates a residence or conceals a child with the intent to interfere with an investigation commits an offense.



*In re D.F.P.S.*, 255 S.W.3d 613, 615 (Tex. 2008) (citations omitted); see also *In re M.N.M.*, 524 S.W.3d 396, 404 (Tex. App.—Houston [14th Dist.] 2017, orig. proceeding) (although Mother tested positive for methamphetamine use and Father refused to show up for drug test, CPS has other options for addressing substance-abuse short of removal).

**c. “reasonable efforts have been made to enable the child to return home, but there is a substantial risk of a continuing danger if the child is returned home”**

A myriad of protections can be put in place in the period between removal and the adversary hearing that CPS is required to have good reason to eliminate as options. In *In re Pate*, Mother had prior temporary removal of children, tested positive for drugs, was previously hospitalized for self-harm, and child was found was unsupervised, wearing an extremely soaked diaper, and had been sleeping in a bed also soaked with urine. *In re Pate*, 407 S.W.3d 416, 417 (Tex. App.—Houston [14th Dist.] 2013, orig. proceeding). The court held that none of these circumstances relieved CPS of the obligation to try to return the removed child home before the adversary hearing. *Id.*

In *In re T.M.*, the court held that there was insufficient evidence that the department made reasonable efforts to return a child home, despite CPS’s view that everyone was a risk to the child because she had an unexplained injury:

Father confirmed at the adversary hearing that the Department (1) did not make any suggestions or recommendations for the child to return home safely; (2) did not offer any services to allow the child to return home; and (3) had not contacted him about what it would do to try to return the child. Mother similarly testified that the Department made no effort to return the child to her home.

Kiser believed that the child will always be in danger with Mother and Father as long as they are unable to provide an explanation for the child’s injuries but “[i]f they can tell me what happened, then yes, that can change my mind.” Consistent with Kiser’s testimony, the Department argues that efforts by it to enable the child’s return were unsuccessful because the child had suffered injuries while in the care of Mother and Father, who did not acknowledge that the child was injured.

There is nothing in the record to show that the Department made any reasonable efforts to enable the child to return to her home. The Department failed to take any steps such as implementing a family service plan, which is

considered a reasonable effort to enable a child to return home. See *In re R.P.D.*, No. 05-09-00258-CV, 2019 WL 1578274, at \*2 (Tex. App.—Dallas Apr. 12, 2019, orig. proceeding) (mem. op.); *In re N.R.T.*, 338 S.W.3d 667, 674 (Tex. App.—Amarillo 2011, no pet.); *In re J.J.S.*, 272 S.W.3d 74, 83–84 (Tex. App.—Waco 2008, pet. struck); *In re S.S.*, No. 11-05-00083-CV, 2006 WL 1285125, at \*3 (Tex. App.—Eastland May 11, 2006, no pet.) (mem. op.). Moreover, although Rutland and Sublett believed that Father intentionally injured the child, the Department did not ask Father to move out of the child’s home so that she could return home.

Subsection (3) affords the trial court discretion to determine what efforts are “reasonable” to enable the child to return home. *In re Pate*, 407 S.W.3d 416, 419 (Tex. App.—Houston [14th Dist.] 2013, orig. proceeding). However, in this case, there is no evidence that the Department made any effort to enable the child to return home. In the absence of such evidence, the Department did not meet its burden under section 262.201(g) and the trial court was required to return the child to Mother and Father. See TEX. FAM. CODE ANN. § 262.201. Therefore, we hold that the trial court abused its discretion by not ordering the child returned to Mother and Father. See *Pate*, 407 S.W.3d at 420 (conditionally granting petition because department failed to provide evidence that it had made reasonable efforts to enable child to return home).

*In re T.M.*, No. 14-20-00703-CV, 2021 WL 865363, at \*4 (Tex. App.—Houston [14th Dist.] Mar. 9, 2021 [mand. denied]).

If CPS does remove a child from parents, CPS’s policies and the language of 262.201 require parents be given a Caregiver Resource Form to identify any possible alternative to foster care placements. CPS Handbook §3221 (requiring caseworker to provide parents the Child Caregiver Resource form to identify possible placements for children “as soon as possible” after removal); *id.* §3224 (requiring notification of relatives within 30 days); TEX. FAMILY CODE §262.201(l) (“The court shall require each parent, alleged father, or relative of the child before the court to complete the proposed child placement resources form provided under Section 261.307 and file the form with the court, if the form has not been previously filed with the court, and provide the Department of Family and Protective Services with information necessary to locate any other absent parent, alleged father, or relative of the child.”); TEX. FAMILY CODE §261.307 (requiring CPS

to provide child placement resources form to parent for him or her to identify possible placements).<sup>24</sup> Failure to pursue safe placement with an identified the relative or friend through a PCSP or other arrangement is grounds for arguing that CPS did not make all reasonable efforts to return the child.

a. Adversary Hearing strategies

The adversary hearing is the place to convince the court that CPS did not give it the full picture at the emergency hearing. If you sent CPS a notice of representation on behalf of parents before the hearing—and specifically asked for notice of any emergency hearing but did not receive notice—tell the court that at the adversary hearing. It will not be pleased.

Take on the affidavit that was used as the basis for removal. Although it is supposed to be objective, the affidavit often is drafted to only include negative facts regarding your client and/or the investigation. For example, if there is a neglect allegation, does the affidavit include information from the pediatric medical records demonstrating that the child sees a physician regularly? If there is an abuse allegation, does the affidavit include information about there being no marks on the child's body or attach pictures reflecting the same? Did the caseworker explore all potential placements or alternatives to removal? Whatever information you have sent to CPS during the investigation—records, collaterals to talk to, etc.—that is left out of the affidavit, you should be challenging.

Cross examine CPS's witnesses with materials straight from CPS's Handbook. Often they will express a profound unfamiliarity with important, relevant provisions. Be prepared to take on CPS's experts, and to present your own experts if necessary.

Finally, create a crystal clear record about how the court cannot make all three findings it must make to refuse return of the child: (1) "there was a danger to the physical health or safety of the child ... which was caused by an act or failure to act of the person entitled to possession and for the child to remain in the home is contrary to the welfare of the child"; (2) "the urgent need for protection required the immediate removal of the child and reasonable efforts, consistent with the circumstances and providing for the safety of the child, were made to eliminate or prevent the child's removal"; **and** "reasonable efforts have been made to enable the

child to return home, but there is a substantial risk of a continuing danger if the child is returned home." TEX. FAMILY CODE §262.201(g). Rarely will CPS's witnesses be able to articulate what they did to eliminate the need for removal or what reasonable efforts it made to return the child home.

b. Challenging Temporary Orders from the Adversary Hearing

If the court finds that returning the child to the parent or placement with "another parent, managing conservator, possessory conservator, guardian, caretaker, or custodian entitled to possession" is not warranted, it must enter temporary orders. TEX. FAM. CODE §262.201(h). These generally award CPS conservatorship of the child.

***\*The only way to challenge temporary orders from an Adversary Hearing is by filing a mandamus petition. This can matter in more ways than one. Aside from challenging the basis for removal under section 262.201, a mandamus petition is a parent's one shot at establishing a child was not "removed for abuse or neglect" for purposes of a later termination trial based upon failure to complete a service plan.\*<sup>25</sup>***

See generally *In re Justin M.*, 549 S.W.3d 330, 334 (Tex. App.—Texarkana 2018, orig. proceeding) ("A trial court's decision to allow the Department to maintain custody of a child following an adversary hearing is reviewable through a petition for a writ of mandamus."); *In Int. of E.R.W.*, 528 S.W.3d 251, 257 (Tex. App.—Houston [14th Dist.] 2017, orig. proceeding) ("Mother could have challenged the removal and temporary orders under section 262 of the Family Code through a mandamus proceeding. See *In re J.D.S.*, 494 S.W.3d 387, 389 (Tex. App.—Waco 2015, no pet.) (holding that the trial court's decision to allow Department to maintain custody of child following an adversary hearing is reviewable, if at all, through petition for writ of mandamus); She did not do so. Because the trial court since has rendered a final judgment, Mother's complaints about the temporary orders authorizing emergency removal are moot.").

<sup>24</sup> This is related to the court's obligation to place a child with any appropriate relative TEX. FAMILY CODE §262.201(n) ("If the court does not order possession of a child by a parent, managing conservator, possessory conservator, guardian, caretaker, or custodian entitled to possession under Subsection (g) or (g-1), the court shall place the child with a relative of the child unless the court finds that the placement with a relative is not in the best interest of the child.)."

<sup>25</sup> Tex. Family. Code §161.001(b)(O) (predicate termination ground: parent "failed to comply with the provisions of a court order that specifically established the actions necessary for the parent to obtain the return of the child who has been in the permanent or temporary managing conservatorship of the Department of Family and Protective Services for not less than nine months as a result of the child's removal from the parent under Chapter 262 for the abuse or neglect of the child").

- c. A service plan for the parent, which can be amended, must be filed by CPS once it is granted conservatorship.

“[N]ot later than the 45th day after the date the court renders a temporary order appointing the department as temporary managing conservator of a child under Chapter 262, the department shall file a service plan.” TEX. FAMILY CODE §263.101. Now that the service plan has moved into the court-order stage that implicates parental rights, TEX. FAM. CODE §263.106 (“After reviewing the original or any amended service plan and making any changes or modifications it deems necessary, the court shall incorporate the original and any amended service plan into the orders of the court and may render additional appropriate orders to implement or require compliance with an original or amended service plan”), there are statutory requirements for the plan:

(a) The service plan must:

- (1) be specific;
- (2) be in writing in a language that the parents understand, or made otherwise available;
- (3) be prepared by the department in conference with the child's parents;
- (4) state appropriate deadlines;
- (5) specify the primary permanency goal and at least one alternative permanency goal;
- (6) state steps that are necessary to:

(A) return the child to the child's home if the placement is in foster care;

(B) enable the child to remain in the child's home with the assistance of a service plan if the placement is in the home under the department's supervision; or

(C) otherwise provide a permanent safe placement for the child;

(7) state the actions and responsibilities that are necessary for the child's parents to take to achieve the plan goal during the period of the service plan and the assistance to be provided to the parents by the department or other agency toward meeting that goal;

(8) state any specific skills or knowledge that the child's parents must acquire or learn, as well as any behavioral changes the parents must exhibit, to achieve the plan goal;

(9) state the actions and responsibilities that are necessary for the child's parents to take to ensure that the child attends school and maintains or improves the child's academic compliance;

(10) state the name of the person with the department whom the child's parents may contact for information relating to the child if other than the person preparing the plan; and

(11) prescribe any other term or condition that the department determines to be necessary to the service plan's success.

- (b) The service plan shall include the following statement:

TO THE PARENT: THIS IS A VERY IMPORTANT DOCUMENT. ITS PURPOSE IS TO HELP YOU PROVIDE YOUR CHILD WITH A SAFE ENVIRONMENT WITHIN THE REASONABLE PERIOD SPECIFIED IN THE PLAN. IF YOU ARE UNWILLING OR UNABLE TO PROVIDE YOUR CHILD WITH A SAFE ENVIRONMENT, YOUR PARENTAL AND CUSTODIAL DUTIES AND RIGHTS MAY BE RESTRICTED OR TERMINATED OR YOUR CHILD MAY NOT BE RETURNED TO YOU. THERE WILL BE A COURT HEARING AT WHICH A JUDGE WILL REVIEW THIS SERVICE PLAN.

- (c) Repealed by Acts 2015, 84th Leg., ch. 944 (S.B. 206), § 86(16).

(d) The department or other authorized entity must write the service plan in a manner that is clear and understandable to the parent in order to facilitate the parent's ability to follow the requirements of the service plan.

(e) Regardless of whether the goal stated in a child's service plan as required under Subsection (a)(5) is to return the child to the child's parents or to terminate parental rights and place the child for adoption, the department shall concurrently provide to the child and the child's family, as applicable:

(1) time-limited family reunification services as defined by 42 U.S.C. Section 629a for a period not to exceed the period within which the court must render a final order in or dismiss the suit affecting the

parent-child relationship with respect to the child as provided by Subchapter E;1 and

(2) adoption promotion and support services as defined by 42 U.S.C. Section 629a.

(f) The department shall consult with relevant professionals to determine the skills or knowledge that the parents of a child under two years of age should learn or acquire to provide a safe placement for the child. The department shall incorporate those skills and abilities into the department's service plans, as appropriate.

TEX. FAMILY CODE §263.102.

“The service plan may be amended at any time. The department shall work *with the parents to jointly develop* any amendment to the service plan, including informing the parents of their rights in connection with the amended service plan process.” TEX. FAMILY CODE §263.104 (emphasis added). In other words, there are additional opportunities to modify the parent’s service plan if CPS files suit and the court orders services.

It is vitally important to insist on a Family Team Meeting to conference with CPS about the services to be requested. Services are required to directly pertain to the act that CPS says harmed the child. TEX. FAMILY CODE §263.202(b)(3). Typically, CPS will instead “throw the kitchen sink” at parents in a cut-and-paste service plan that includes many services at not aimed at the exact cause for CPS involvement.

### 3. Status Hearing

“Not later than the 60th day after the date the court renders a temporary order appointing the department as temporary managing conservator of a child, the court shall hold a status hearing to review the child's status and the service plan developed for the child.” TEX. FAMILY CODE §263.201(a). At this status hearing, the court is required, again to ensure that a child placement resources form has been submitted. TEX. FAM. CODE §263.201(c) (“The court shall require each parent, alleged father, or relative of the child before the court to submit the proposed child placement resources form provided under Section 261.307 at the status hearing, if the form has not previously been submitted.”).

At the status hearing, question the caseworker about why CPS is asking for particular services and what it expects the parent to learn from the service. In my experience, most caseworkers have no idea what is covered in a “parenting class,” nor do they know what a “psyco-social” assessment is used to discover. Argue to eliminate services that are not “narrowly tailored” to assist your client’s ability to comply.

### 4. Permanency Hearings

“Not later than the 180th day after the date the court renders a temporary order appointing the department as temporary managing conservator of a child, the court shall hold a permanency hearing to review the status of, and permanency plan for, the child to ensure that a final order consistent with that permanency plan is rendered before the date for dismissal of the suit under this chapter.” TEX. FAMILY CODE §263.304. The court is required to hold additional permanency hearing throughout the pendency of a case. TEX. FAMILY CODE §263.305 (“A subsequent permanency hearing before entry of a final order shall be held not later than the 120th day after the date of the last permanency hearing in the suit. For good cause shown or on the court's own motion, the court may order more frequent hearings.”).

At every permanency hearing, the court is required to make specific inquiries and findings.

(a-1) At each permanency hearing before a final order is rendered, the court shall:

- (1) identify all persons and parties present at the hearing;
- (2) review the efforts of the department or other agency in:

(A) locating and requesting service of citation on all persons entitled to service of citation under Section 102.009; and

(B) obtaining the assistance of a parent in providing information necessary to locate an absent parent, alleged father, relative of the child, or other adult identified by the child as a potential relative or designated caregiver;

(3) ask all parties present whether the child or the child's family has a Native American heritage and identify any Native American tribe with which the child may be associated;

(4) review the extent of the parties' compliance with temporary orders and the service plan and the extent to which progress has been made toward alleviating or mitigating the causes necessitating the placement of the child in foster care;

(5) review the permanency progress report to determine:

(A) the safety and well-being of the child and whether the child's needs, including any medical or special

needs, are being adequately addressed;

(B) the continuing necessity and appropriateness of the placement of the child, including with respect to a child who has been placed outside of this state, whether the placement continues to be in the best interest of the child;

(C) the appropriateness of the primary and alternative permanency goals for the child developed in accordance with department rule and whether the department has made reasonable efforts to finalize the permanency plan, including the concurrent permanency goals, in effect for the child;

(D) whether the child has been provided the opportunity, in a developmentally appropriate manner, to express the child's opinion on any medical care provided;

(E) whether the child has been provided the opportunity, in a developmentally appropriate manner, to identify any adults, particularly an adult residing in the child's community, who could be a relative or designated caregiver for the child;

(F) for a child receiving psychotropic medication, whether the child:

- (i) has been provided appropriate nonpharmacological interventions, therapies, or strategies to meet the child's needs; or
- (ii) has been seen by the prescribing physician, physician assistant, or advanced practice nurse at least once every 90 days;

(G) whether an education decision-maker for the child has been identified, the child's education needs and goals have been identified and addressed, and there have been major changes in the child's school performance or there have been serious disciplinary events;

(H) for a child 14 years of age or older, whether services that are needed to assist the child in transitioning from substitute care to independent living are available in the child's community; and

(I) for a child whose permanency goal is another planned permanent living arrangement:

(i) the desired permanency outcome for the child, by asking the child;

(ii) whether, as of the date of the hearing, another planned permanent living arrangement is the best permanency plan for the child and, if so, provide compelling reasons why it continues to not be in the best interest of the child to:

- (a) return home;
- (b) be placed for adoption;
- (c) be placed with a legal guardian; or
- (d) be placed with a fit and willing relative;

(iii) whether the department has conducted an independent living skills assessment under Section 264.121(a-3);

(iv) whether the department has addressed the goals identified in the child's permanency plan, including the child's housing plan, and the results of the independent living skills assessment;

(v) if the youth is 16 years of age or older, whether there is evidence that the department has provided the youth with the documents and information listed in Section 264.121(e); and

(vi) if the youth is 18 years of age or older or has had the disabilities of minority removed, whether there is evidence that the department has provided the youth with the documents and information listed in Section 264.121(e-1);

- (6) determine whether to return the child to the child's parents if the child's parents are willing and able to provide the child with a safe environment and the return of the child is in the child's best interest;
- (7) estimate a likely date by which the child may be returned to and safely maintained in the child's home, placed for adoption, or placed in permanent managing conservatorship; and
- (8) announce in open court the dismissal date and the date of any upcoming hearings.

(b) Repealed by Acts 2015, 84th Leg., ch. 944 (S.B. 206), § 86(18).

(c) In addition to the requirements of Subsection (a-1), at each permanency hearing before a final order is rendered the court shall review the department's efforts to:

- (1) ensure that the child has regular, ongoing opportunities to engage in age-appropriate normalcy activities, including activities not listed in the child's service plan; and
- (2) for a child placed with a relative of the child or other designated caregiver, inform the caregiver of:

- (A) the option to become verified by a licensed child-placing agency to operate an agency foster home, if applicable; and
- (B) the permanency care assistance program under Subchapter K, Chapter 264.

TEX. FAMILY CODE §263.306.

***\*Of particular importance is subsection (c) below, which the Legislature added in 2021 to section 263.002, requiring the court, at every single permanency hearing, to return the child home unless certain finds are made.\****

(c) At each permanency hearing before the final order, the court ***shall*** review the placement of each child in the temporary managing conservatorship of the department who has not been returned to the child's home. At the end of the hearing, the court ***shall*** order the department to return the child to the child's

parent or parents unless the court finds, with respect to each parent, that:

- (1) there is a continuing danger to the physical health or safety of the child; and
- (2) returning the child to the child's parent or parents is contrary to the welfare of the child.

TEX. FAMILY CODE §263.002 (emphasis added).

## 5. Trial

A termination trial must generally be held by “the first Monday after the first anniversary of the date the court rendered a temporary order appointing the department as temporary managing conservator, the court's jurisdiction over the suit affecting the parent-child relationship filed by the department that requests termination of the parent-child relationship or requests that the department be named conservator of the child is terminated.” TEX. FAMILY CODE §263.401. At that point, absent an adequate extension, “the suit is automatically dismissed without a court order.” TEX. FAMILY CODE § 263.401.

A parent is entitled to a jury trial on issues of termination. TEX. FAMILY CODE §105.002. The grounds for termination are multifarious,<sup>26</sup> but three are generally the predicate provisions CPS pursues: §161.001(b)(O) (failure to complete service plan), §161.001(b)(D) (endangering environment); §161.001(b)(E) (endangering conduct). CPS must also prove that termination is in a child's best interest. Both the predicate ground and the best-interest ground are equally important. The standard for termination is “clear and convincing evidence.” §161.001(b). The Texas Supreme Court has articulated what this means at trial, and on appellate review:

Termination of a parent's rights to a child requires proof by clear and convincing evidence. TEX. FAM. CODE § 161.001(b). Under the Family Code, “[c]lear and convincing evidence” means the measure or degree of proof that will produce in the mind of the trier of fact a firm belief or conviction as to the truth of the allegations sought to be established.” *Id.* §101.007. “This heightened standard of review is mandated not only by the Family Code ... but also the Due Process Clause of the United States Constitution.” *In re E.N.C.*, 384 S.W.3d 796, 802 (Tex. 2012). In accordance with this heightened standard, we “strictly construe involuntary termination

<sup>26</sup> TEX. FAMILY CODE §161.001.

statutes in favor of the parent.” *Id.*; see also *In re E.R.*, 385 S.W.3d 552, 563 (Tex. 2012); *Holick v. Smith*, 685 S.W.2d 18, 20 (Tex. 1985).

We have further held that the heightened burden of proof in parental termination cases gives rise to a concomitantly heightened standard of appellate review. *In re N.G.*, 577 S.W.3d 230, 235 (Tex. 2019). Under the legal sufficiency standard of review for a finding based on clear and convincing evidence, “a court should look at all the evidence in the light most favorable to the finding to determine whether a reasonable trier of fact could have formed a firm belief or conviction that its finding was true.” *In re J.F.C.*, 96 S.W.3d 256, 266 (Tex. 2002). Although “the trier of fact may draw inferences,” those inferences must be “reasonable and logical ones.” *In re E.N.C.*, 384 S.W.3d at 804. Under this standard of review, “looking at the evidence in the light most favorable to the judgment means that a reviewing court must assume that the factfinder resolved disputed facts in favor of its finding if a reasonable factfinder could do so.” *In re J.F.C.*, 96 S.W.3d at 266. To that end, a reviewing court “should disregard all evidence that a reasonable factfinder could have disbelieved or found to have been incredible.” *Id.* Of course, that “does not mean that a court must disregard all evidence that does not support the finding,” as doing so “could skew the analysis of whether there is clear and convincing evidence.” *Id.* If, after conducting this review, an appellate court “determines that no reasonable factfinder could form a firm belief or conviction that the matter that must be proven is true, then that court must conclude that the evidence is legally insufficient.” *Id.*

Under the Family Code, “[f]or a trial court to terminate a parent's right to his [child], the State must prove by clear and convincing evidence both that: (1) the parent committed an act prohibited under [section 161.001(b)(1)], and (2) termination is in the [child's] best interest.” *In re E.N.C.*, 384 S.W.3d at 803.

*Int. of Z.N.*, 602 S.W.3d 541, 545 (Tex. 2020).

## VI. OVERALL PRACTICE TIPS

- Advise your client to talk to CPS when contacted, but record and document;
- Never allow CPS to give your client advice, such as to “protect” child, implying a parent should defy a court order providing access to another parent. CPS will never get on the witness stand and admit it told a parent to violate a court order. But, in my practice, so many parents have insisted they were told to withhold children against an order at the behest of a caseworker. I feel strongly that CPS directly or indirectly implies this action should be taken quite often;
- Utilize all available discovery;
- Proactively provide all information to CPS that is helpful to your client;
- Preserve error: object, object, and object. Hold CPS’s feet to the fire in every situation, including requirements that it constantly look for least restrictive alternatives for keeping parents and children together. File a mandamus proceeding if necessary; and
- Remember that CPS is subject to Chapter 10 of the Civil Practice and Remedies Code and Rule 13 of the Texas Rules of Civil Procedure.<sup>27</sup>

<sup>27</sup> App. E contains a sample motion.





**App. A**



**NOTICE: THIS DOCUMENT CONTAINS SENSITIVE DATA**

**NO.** \_\_\_\_\_

**IN THE INTEREST OF**

\_\_\_\_\_

**CHILD**

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**IN THE COUNTY COURT**

**AT LAW**

\_\_\_\_\_ **COUNTY, TEXAS**

**RESPONDENT, [REDACTED] REQUEST FOR**  
**262.014 DISCLOSURE TO PETITIONER**

**TO:** Petitioner, Texas Department of Family and Protective Services through its attorney of record, \_\_\_\_\_.

Pursuant to Texas Family Code §262.014, you are requested to provide, prior to the full adversary hearing, the following information:

- (1) the name of any person, excluding a department employee, whom the department will call as a witness to any of the allegations contained in the petition filed by the department;
- (2) a copy of any offense report related to the allegations contained in the petition filed by the department that will be used in court to refresh a witness's memory; and
- (3) a copy of any photograph, video, medical record, or recording that will be presented as evidence.

Respectfully submitted,

**SLATE & ASSOCIATES**  
112 E. FORREST LANE  
DEER PARK, TEXAS 77536  
Tel: (281) 476-9447  
Fax: (281) 476-5811

By: /s/ Dennis M. Slate

**DENNIS M. SLATE**

State Bar No. 24029836

service@slatelaw.com

Attorney for \_\_\_\_\_

**CERTIFICATE OF SERVICE**

I hereby certify that on the \_\_\_\_\_, a true and correct copy of the foregoing Respondent \_\_\_\_\_'s Request for 262.014 Disclosure was forwarded to all attorneys of record and other parties, if any, via email and/or facsimile and/or hand delivery and/or certified mail, return receipt requested.

/s/ Dennis M. Slate

**DENNIS M. SLATE**

Attorney for \_\_\_\_\_

# App. B





# REQUEST FOR CASE RECORDS

## RECORDS MANAGEMENT GROUP

Use this form to request a copy of an Adult Protective Services, Child Care Licensing, or Child Protective Services case record. The Records Management Group (RMG) adheres to and complies with all statutes and rules pertaining to the entitlement, redaction, and release of the case records RMG maintains. Additional information regarding requests for case records, including entitlement guidelines, can be found at: <http://www.dfps.state.tx.us/policies/caserecord.asp>

Please fill out the fields below by typing or by printing legibly. An asterisk (\*) indicates this information is required.

| A. What type of case record are you requesting from DFPS? |   |  |
|---|---|--|
| Adult Protective Services (APS) <input type="checkbox"/>  | Child Care Licensing (CCL) <input type="checkbox"/> | Child Protective Services (CPS) <input type="checkbox"/> |

| B. What do you know about the case record? Please enter as much information as you can. |                  |   |
|---|------------------|---|
| Case Name (APS or CPS) or Facility Name (CCL):  | Case Number:     | Case Dates (approximate dates case was open): |
| *Names of the primary children and/or adults involved in the case:                      | *Dates of Birth: | *Social Security Numbers:                     |
|   |                  |   |
|   |                  |   |
| Any other identifying information, including former names:                              |                  |   |

| C. Who are you and how can we reach you if we have questions?  |                                 |                 |
|--|---------------------------------|-----------------|
| *First Name  | Middle Initial                  | *Last Name      |
| *Are you involved in the case that you are requesting? Yes <input type="checkbox"/> No <input type="checkbox"/> If yes, were you ever in DFPS foster care as a child? Yes <input type="checkbox"/> No <input type="checkbox"/> |                                 |                 |
| If you are requesting the record for a case in which you are NOT involved, please select one of the three options below.   |                                 |                 |
| 1. I am an attorney. <input type="checkbox"/> I am representing: _____ My bar card number is: _____  |                                 |                 |
| 2. I have a court order. <input type="checkbox"/> It authorizes me to request these records on someone else's behalf and a copy is included with this request.   |                                 |                 |
| 3. I am not either of the above. <input type="checkbox"/> However, I believe I am authorized to request these records on someone else's behalf because: _____  |                                 |                 |
| *Telephone Number (include area code):   | Fax Number (include area code): | E-mail Address: |

| D. Where do you want your copy of the case record mailed? |        |         |            |
|---|--------|---------|------------|
| *Mailing Address (street or P.O. box):                    | *City: | *State: | *Zip Code: |
|   |        |         |            |

| E. Can you agree to the following?   |              |
|--|--------------|
| <ul style="list-style-type: none"> <li>I believe that all of the above information on my request is true and correct to the best of my knowledge.</li> <li>I have included a copy of my valid driver's license or other picture identification to verify my identity.</li> </ul> |              |
| *Signed: _____   | *Date: _____ |
| <b>Exceptions:</b> Please contact us if you were formerly in DFPS foster care and have trouble sending a copy of your picture ID. If you are an attorney and you have provided your bar card number, a copy of your picture identification is not required.                      |              |

If you have questions about this form or other records-related issues, please send an email to [Records.Management@DFPS.STATE.TX.US](mailto:Records.Management@DFPS.STATE.TX.US) or call us toll-free at 877-764-7230

Send by mail the completed form and all required documents to:  
 Department of Family and Protective Services, Attn: RMG (Y-937), P.O. Box 149030, Austin, Texas, 78714-19030

**THE STATE OF TEXAS  
WITNESS SUBPOENA/SUBPOENA DUCES TECUM  
PURSUANT TO TEXAS RULES OF CIVIL PROCEDURE 176**

IN THE INTEREST OF

§  
§  
§  
§  
§  
§

IN THE DISTRICT COURT

, AND

308<sup>th</sup> JUDICIAL DISTRICT

CHILDREN

HARRIS COUNTY, TEXAS

**TO ANY SHERIFF OR CONSTABLE OF THE STATE OF TEXAS OR OTHER PERSON  
AUTHORIZED TO SERVE AND EXECUTE SUBPOENAS AS PROVIDED IN RULE 176 T.R.C.P.**

**YOU ARE HEREBY COMMANDED TO SUMMON** \_\_\_\_\_, Texas Department of Family and Protective Services - CPS Investigations, \_\_\_\_\_, to appear before the \_\_\_\_\_ Judicial District Court of \_\_\_\_\_ County, Texas, located at \_\_\_\_\_, on the \_\_\_\_ day of \_\_\_\_ 2022 at 9:00 a.m. to testify as a witness at the requests of the Petitioner/Respondent in the above styled Civil Action, to attend from day to day until lawfully discharged via Zoom.

**SAID ABOVE NAMED WITNESS IS FURTHER COMMANDED** to produce at said time and place set forth above the following books, papers, documents, or other tangible things, to wit: **All original documents relating to any open or closed investigations related to the following individuals:** \_\_\_\_\_ Mother, \_\_\_\_\_ Father, \_\_\_\_\_, child/children (add DOB), including but not limited to the following:

1. Any and all correspondence, including but limited to any internal emails and/or text messages between Texas Department of Family Protective Services caseworker/supervisor or any other employee at Texas Department of Family Protective Services
2. Any and all correspondence, including but limited to emails and/or text messages between the parties and any Texas Department of Family Protective Services caseworker/supervisor or any other employee at Texas Department of Family Protective Services
3. Case summaries
4. Findings letters
5. Close out letters,
6. Memos
7. Investigation reports, investigative information, investigation contacts
8. Intake narratives
9. Allegation details,
10. Criminal histories
11. Safety assessments,
12. Forensic interviews
13. Written notes from any interviewers
14. Video and/or audio recordings from all interviews
15. Risk assessments
16. Contact log narratives
17. Any other reports in draft or final form
18. Medical records
19. Safety plans
20. Print outs of all impact database entries or any other forms relating to \_\_\_\_\_, Mother, \_\_\_\_\_ Father, \_\_\_\_\_, child/children (add DOB).



**DO NOT FAIL** to return this writ to said Court, with return thereon, showing the manner of execution.

**ISSUED** this the \_\_\_\_ of \_\_\_\_\_, A.D., 2022.

**SLATE & ASSOCIATES**  
112 E. FORREST LANE  
DEER PARK, TEXAS 77536  
Tel: (281) 476-9447  
Fax: (281) 476-5811

By: \_\_\_\_\_  
**DENNIS M. SLATE**  
State Bar No. 24029836  
Attorney for \_\_\_\_\_  
E-mail: service@slatelaw.com

Issued At Request of Petitioner/Respondent: \_\_\_\_\_, by and through his attorney of record,

Dennis M. Slate

Phone Number: 281/476-9447

Address: 112 E. Forrest Lane, Deer Park TX 77536

**OFFICER'S RETURN ON BACK**

**WITNESS SUBPOENA/SUBPOENA DUCES TECUM  
RETURN**

Came to hand the \_\_\_\_ day of \_\_\_\_\_, 2022, at \_\_\_\_\_ o'clock \_\_\_\_  
M., and executed the \_\_\_\_ day of \_\_\_\_\_  
, 2022, at \_\_\_\_ o'clock \_\_\_\_ M., by delivering to the within named \_\_\_\_\_  
in person at \_\_\_\_\_  
in \_\_\_\_\_ County, Texas, a true copy of this Subpoena, and tendering said  
witness the sum of \$ \_\_\_\_\_.

By Deputy: \_\_\_\_\_  
Sheriff/Constable \_\_\_\_\_  
\_\_\_\_\_ County, Texas

**OR**

By: \_\_\_\_\_  
Person who is not a party to the suit and is not less than 18 years of age.

**ACCEPTANCE OF SERVICE OF SUBPOENA BY WITNESS PER RULE 176 T.R.C.P.**

I, the undersigned witness named in the Subpoena acknowledge receipt of a copy thereof, and hereby accept service of the attached subpoena, and will appear in said court on said date and time directed in this subpoena.

***Rule 176.8(a) Contempt. Failure by any person without adequate excuse to obey a subpoena served upon that person may be deemed a contempt of the court from which the subpoena is issued or a district court in the county in which the subpoena is served, and may be punished by fine or confinement, or both.***

\_\_\_\_\_  
SIGNATURE OF WITNESS

\_\_\_\_\_  
DATE

\*\*\*\*\*  
Not executed as to the witness \_\_\_\_\_  
for the following reasons: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

FEE FOR SERVICE OF SUBPOENA: \$ \_\_\_\_\_

**THE STATE OF TEXAS  
WITNESS SUBPOENA/SUBPOENA DUCES TECUM  
PURSUANT TO TEXAS RULES OF CIVIL PROCEDURE 176**

[REDACTED]

|                           |   |   |
|---------------------------|---|---|
| <b>IN THE INTEREST OF</b> | § | <b>IN THE DISTRICT COURTS OF</b>          |
| <b>[REDACTED]</b>         | § | <b>TRAVIS COUNTY, TEXAS</b>               |
| <b>A CHILD</b>            | § | <b>200<sup>th</sup> JUDICIAL DISTRICT</b> |

**TO ANY SHERIFF OR CONSTABLE OF THE STATE OF TEXAS OR OTHER PERSON AUTHORIZED TO SERVE AND EXECUTE SUBPOENAS AS PROVIDED IN RULE 176 T.R.C.P.**

**YOU ARE HEREBY COMMANDED TO SUMMON** Custodian of Records for DELL CHILDREN'S HOSPITAL, Address: 4900 Mueller Blvd., 3<sup>rd</sup> Floor, 3J.001A, Austin, Texas 78723 is hereby commanded to appear before the 196<sup>th</sup> Judicial District Court of Travis County, Texas located at 1000 Guadalupe, 4<sup>th</sup> Floor, Austin, Texas 78701, Austin, Texas, Travis County, on **August 25, 2021 at 9:00 a.m.** to testify as a party/witness in the above styled Civil Action, to attend from day to day until lawfully discharged.

**SAID ABOVE NAMED WITNESS IS FURTHER COMMANDED** to produce at said time and place set forth above the following books, papers, documents, or other tangible things, to wit: **Any and all progress notes, Nurses Notes, Doctor's Notes discharged summaries, consultations, laboratory reports, X-RAY, Cat scan images, MRI images, and any other images relating to [REDACTED] (DOB: 01/20/2021) radiology reports, photographs or videotapes, correspondence, operative reports, consultation report, test results, hospital records, any and all records maintained by the child abuse pediatrics clinic, records and/or file, any emails sent and/or received by any physician, any emails sent and/or received from the Texas Department of Family Protective Services, and any other records relating to [REDACTED] (DOB: 01/20/2021) to which said custodian has access whether the records are maintained in paper, electronic, microfiche or any other format or means or whether the records in your possession are copies of records maintained by others.**

**DO NOT FAIL** to return this writ to said Court, with return thereon, showing the manner of execution.

**ISSUED** this the 18<sup>th</sup> day of August, A.D., 2021.

**SLATE & ASSOCIATES**

112 E. FORREST LANE  
DEER PARK, TEXAS 77536

Tel: (281) 476-9447

Fax: (281) 476-5811

By: 

**DENNIS M. SLATE**

State Bar No. 24029836

Attorney for Petitioner

E-mail: service@slatelaw.com

Issued At Request Of Respondent: [REDACTED], by and through attorney of record, Dennis M. Slate

Phone Number: 281/476-9447

Address: 112 E. Forrest Lane, Deer Park TX 77536

**OFFICER'S RETURN ON BACK**

**WITNESS SUBPOENA/SUBPOENA DUCES TECUM  
RETURN**

Came to hand the \_\_\_\_ day of \_\_\_\_\_, 2021, at \_\_\_\_\_ o'clock \_\_\_\_M., and  
executed the \_\_\_\_ day of \_\_\_\_\_, 2021, at \_\_\_\_  
o'clock \_\_\_\_M., by delivering to the within named \_\_\_\_\_  
in person at \_\_\_\_\_  
in \_\_\_\_\_ County, Texas, a true copy of this Subpoena, and tendering said witness the  
sum of \$ \_\_\_\_\_.

By Deputy: \_\_\_\_\_  
Sheriff/Constable \_\_\_\_\_  
\_\_\_\_\_ County, Texas

**OR**

By: \_\_\_\_\_  
Person who is not a party to the suit, and is not less than 18 years of age.

**ACCEPTANCE OF SERVICE OF SUBPOENA BY WITNESS PER RULE 176 T.R.C.P.**

I, the undersigned witness named in the Subpoena acknowledge receipt of a copy thereof, and hereby accept service of the attached subpoena, and will appear in said court on said date and time directed in this subpoena.

***Rule 176.8(a) Contempt. Failure by any person without adequate excuse to obey a subpoena served upon that person may be deemed a contempt of the court from which the subpoena is issued or a district court in the county in which the subpoena is served, and may be punished by fine or confinement, or both.***

\_\_\_\_\_  
SIGNATURE OF WITNESS

\_\_\_\_\_  
DATE

\*\*\*\*\*

Not executed as to the witness \_\_\_\_\_  
for the following reasons: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

FEE FOR SERVICE OF SUBPOENA: \$ \_\_\_\_\_

# App. C



## FAMILY PLAN

Reunification

Case Name: [REDACTED]

Case Number: [REDACTED]

Cause Number: [REDACTED]

### PRIMARY PARTICIPANT(S):

[REDACTED]

### PERMANENCY GOAL(S):(See last page for definitions)

| Name of Child(ren) | Primary Permanency Goal(s) | Date to Achieve |
|--------------------|----------------------------|-----------------|
| [REDACTED]         | Not Applicable             |                 |

### PLAN DATES:

|                                 |            |
|---------------------------------|------------|
| Plan Completed/Conference Date: | 09/23/2021 |
| Next Review Due:                | 01/21/2022 |

### HOPES AND DREAMS FOR CHILD(REN):

Mr. and Mrs. [REDACTED] shared they hope [REDACTED] grows up to be a good and kind person. They want her to get a good education as well and joked they would love it if she also shares their passion for golf, and even play in college.

### CHILD(REN) STRENGTHS:

Wingate, Ellie

#### 1. Physical Health/Physical Disability : Needs Identified

[REDACTED] is generally in good health, and up to date on shots and check ups, however she is dealing with unexplained fractures to her wrist, upper arm, clavicle, and her femur, which required surgery. The parents are on top of keeping up with her current medical needs and have a follow up appointment with Dr. Kaufman, and the Department will continue to monitor her healing. Her parents are seeking additional testing and getting a second opinion to search for a cause.

#### 2. Child Development : Strengths/No Needs Identified

[REDACTED] is developmentally on track for her age. She does not have any physical or cognitive impairments. She has recently started crawling, and may be getting a new tooth soon. She is interactive and responsive to her parents and there are no concerns for her development at this time.

#### 3. Education : Strengths/No Needs Identified

[REDACTED] is not currently enrolled in school due to her age, but her parents are looking to start her in a daycare soon. There are no educational concerns for her at this time.

#### 4. Emotional/Behavioral Health : Strengths/No Needs Identified

[REDACTED] is only 8 months old and does not have any behavioral health problems. There are no concerns at this time.

## FAMILY PLAN

Reunification

Case Name: [REDACTED]

Case Number: [REDACTED]

Cause Number: [REDACTED]

### 5a. Family Relationships : Strengths/No Needs Identified

[REDACTED] is well bonded with the members of her family, and there are no conflicts or unsafe relationships. She is securely attached to her family members, especially to her parents.

### 5b. Placement or Staff Family Relationships : Strengths/No Needs Identified

This does not apply. [REDACTED] is living in her home with her parents.

### 6. Peer Relationships : Strengths/No Needs Identified

There is not a PCSP in place at this time.

### 7. Substance Use/Abuse : Strengths/No Needs Identified

[REDACTED] is only 8 months old and is not using any substances, nor is there concern for exposure to substances.

### 8. Delinquent/Criminal Behavior : Strengths/No Needs Identified

[REDACTED] is only 8 months old and is not physically capable of delinquent behaviors, or legally responsible for her actions. There are no concerns for delinquent behaviors.

### 9. Preparation for Adulthood : Strengths/No Needs Identified

[REDACTED] is only 8 months old and does not need any preparation for adulthood at this time.

### 10. Identified Child Strength/Need (Not Covered in Item 1-9) : N/A

### Additional Information:

Mr. and Mrs. [REDACTED] are ordered to provide the Department, CASA, and the Attorney ad Litem with a plan of who will be providing care for the Child while the Respondent Parents work.

IT IS FURTHER ORDERED that the Child shall not be removed from Travis or contiguous counties for more than 48 hours without reasonable advance notice to the child advocates. Such notice shall include the dates, duration, supervisors and anticipated location of the child. Removing the Child from the State of Texas for any reason and for any duration shall require the approval of the child advocates or further order of the Court. This geographical restriction remains in effect until further order of the Court.

### PARENT(S) STRENGTHS:

[REDACTED]

### 1 .Resource Management/Basic Needs : Strengths/No Needs Identified

Mrs. [REDACTED] works as an insurance underwrite and has been doing this for several years. She is able to meet her financial obligations and maintain a safe and stable home for [REDACTED].

### 3 .Social Support System: Non-Household : Strengths/No Needs Identified

Mrs. [REDACTED] has a large and supportive family that she regularly engages with and is able to rely on as needs arise for she and her family. Her parents, aunts, uncles, and brother are very supportive and helpful when it comes to [REDACTED].

### 4 .Intimate Partner Violence : Strengths/No Needs Identified

Mrs. [REDACTED] has known Mr. [REDACTED] for 11 years and they have been married for five years.



## FAMILY PLAN

Reunification

Case Name: [REDACTED]

Case Number: [REDACTED]

Cause Number: [REDACTED]

They both shared they have a healthy relationship with good communication and are very supportive to each other. Their relationship is safe and nurturing. They are able to resolve relationship conflicts peacefully.

### **5 .Other Adult Household Relationships : Strengths/No Needs Identified**

There are no other adults living in the home beyond the parents. Mrs. [REDACTED] is able to solve conflicts peacefully with the other adults in her support system. She and Mr. [REDACTED] have positive interactions and have mutually agreed upon household responsibilities. They resolve conflicts in a safe way.

### **6 .Physical Health : Strengths/No Needs Identified**

Mrs. [REDACTED] does not have any physical health problems that affect family functioning. She practices preventive health care, completes annual physicals, and promotes good health.

### **7 .Cognitive Abilities : Strengths/No Needs Identified**

Mrs. [REDACTED] understands complex information and can make decisions to address daily matters. She is able to apply information to address work and household matters, and is not diagnosed with any cognitive or developmental disabilities.

### **9 .Substance Abuse/Use : Strengths/No Needs Identified**

Mrs. [REDACTED] does not have any history of substance abuse and denies any current use of substances. She does not have any criminal history, specifically none related to substance abuse.

### **10 .Identified Caregiver Strength/Need (Not Covered in Items 1-9) : N/A**

### **1 .Resource Management/Basic Needs : Strengths/No Needs Identified**

Mr. [REDACTED] works in the IT industry and has been doing this for many years. He is able to meet his financial obligations and maintain a safe and stable home for [REDACTED]

### **3 .Social Support System: Non-Household : Strengths/No Needs Identified**

Mr. [REDACTED] has a large and supportive family that he regularly engages with and is able to rely on as needs arise for he and his family. His parents, and extended family are very supportive and helpful when it comes to [REDACTED].

### **4 .Intimate Partner Violence : Strengths/No Needs Identified**

Mr. [REDACTED] has known Mrs. [REDACTED] for 11 years and they have been married for five years. They both shared they have a healthy relationship with good communication and are very supportive to each other. Their relationship is safe and nurturing. They are able to resolve relationship conflicts peacefully.

### **5 .Other Adult Household Relationships : Strengths/No Needs Identified**

There are no other adults living in the home beyond the parents. Mr. [REDACTED] is able to solve conflicts peacefully with the other adults in his support system. He and Mrs. [REDACTED] have positive interactions and have mutually agreed upon household responsibilities. They resolve conflicts in a safe way.

### **6 .Physical Health : Strengths/No Needs Identified**

Mr. [REDACTED] does not have any physical health problems that affect family functioning. He practices preventive health care, completes annual physicals, and promotes good health.

## FAMILY PLAN

Reunification

Case Name: [REDACTED]

Case Number: [REDACTED]

Cause Number: [REDACTED]

### 7 .Cognitive Abilities : Strengths/No Needs Identified

Mr. [REDACTED] understands complex information and can make decisions to address daily matters. He is able to apply information to address work and household matters, and is not diagnosed with any cognitive or developmental dyabilities.

### 9 .Substance Abuse/Use : Strengths/No Needs Identified

Mr. [REDACTED] does not have any history of substance abuse and denies any current use of substances. She does not have any criminal history, specifically none related to substance abuse.

### 10 .Identified Caregiver Strength/Need (Not Covered in Items 1-9) : N/A

### SAFETY NETWORK AND COMMUNITY SUPPORTS:

Mrs. [REDACTED] and Mr. [REDACTED] have a large support network through her parents, his parents, siblings as well as several aunts, uncles, and family friends.

### PARENT(S) NEEDS AND ACTIONS TO ADDRESS:

#### Danger/Worry Statements:

The Department, Mr. and Mrs. [REDACTED], and the family are worried about the unexplained injuries [REDACTED] has as she is only 8 months old. At the time of the discovery of her injury, [REDACTED] was non-ambulatory and was taken to the hospital when her parents were concerned about her refusal to use one of her legs. It was determined [REDACTED] has multiple fractures in different stages of healing for which there are no known instances of trauma, and for which she is incapable of sustaining on her own. [REDACTED] medical workup from Dell Children's hospital has not identified any underlying metabolic bone disease that would predispose her to easy fractures from routine handling, and the parents are seeking a second opinion at the Texas Children's Hospital in Houston. [REDACTED] is at a vulnerable age and unable to protect her self should it be determined there is not a genetic explanation.

#### Additional Information:

Mr. [REDACTED] does not have any history with the department.

Mrs. [REDACTED] does not have any history with the department.

#### Goal Statements:

Mr. and Mrs. [REDACTED] will work with a safety network of family, friends, and the Department to create a plan to ensure that [REDACTED] is always cared for by a safe caregiver, and will continue to look for other explanations to determine the cause of the injuries to [REDACTED]. DFPS will need to see this plan working continuously for up to six months for DFPS and the network to feel confident the plan will continue after the case is closed.

#### Additional Information:

N/A

Does the parent require additional supportive services or assistance in order to accomplish the

## FAMILY PLAN

Reunification

Case Name: [REDACTED]

Case Number: [REDACTED]

Cause Number: [REDACTED]

tasks in the Family Plan of Service?

[REDACTED] : No

[REDACTED] : No

### PARENT(S) NEEDS:

[REDACTED]

#### Parenting Skills

Mrs. [REDACTED] was court ordered to complete a nurturing parenting program to build on her knowledge related to [REDACTED]'s needs and help support her learning, growth, and development. It appears Mrs. [REDACTED] displays adequate parenting skills that are developmentally appropriate for her child in the areas of expectations, discipline, communication, etc.

#### Required Action:

Mrs. [REDACTED] will participate in nurturing parenting classes and provide proof of completion to the Department, CASA, and the Attorney ad Litem.

It is ordered that the Respondent Parents may find their own service providers who provide a substantially similar curriculum to Department providers, so long as the Department, CASA, and the Attorney ad Litem are provided with a copy of the curriculum.

Mrs. [REDACTED] will attend, participate in, and successfully complete the Nurturing Parenting Program (at the treatment level) through one of the following providers and, upon completion, be able to demonstrate the knowledge obtained:

Any Baby Can, 6207 Sheridan Avenue, Austin, Texas (phone: 512-454-3743),

Children First, (co-located with CPS at 14000 Summit Dr., Suite 100, Austin, Texas) (phone: 512-834-3864),

The SAFE Alliance (Strong Start Program), 4800 Manor Road, Austin, TX 78753 (phone: 512-264-4100) [www.projecthopesaustin.org](http://www.projecthopesaustin.org),

The SAFE Alliance (SAFE Futures Program / Fatherhood Services), 1515 Grove Blvd, Austin, TX 78741 (phone: 512-267-7233),

or another provider that runs the Nurturing Parenting Program model and curriculum at the treatment level to fidelity in an evidence-based manner. She may also complete this through her therapist if comparable to an evidence based program.

Target Date/Completed: 12/31/2021

Priority/Status: Initial

Court Ordered: Yes

Resource Name:

[REDACTED]

Resource Phone:

Ext:

## FAMILY PLAN

Reunification

Case Name: [REDACTED]

Case Number: [REDACTED]

Cause Number: [REDACTED]

Resource Address

1:

Resource City:

Resource Address

2:

Zip:

### Coping Skills/Mental Health

Mrs. [REDACTED] has never been diagnosed with any mental health diagnoses, however the Department and child advocates involved feel therapy would be supportive to her considering what she is going through with her family and the unexplained injuries [REDACTED] has. Mrs. [REDACTED] does demonstrate emotions consistent with circumstances. She seems able to cope with crises and problems that arise. Therapy was ordered by the court.

### Required Action:

Mrs. [REDACTED] will participate in individual therapy, and in couples therapy if recommended by their individual therapist(s), and sign a release of information limited solely to the dates and topics covered in sessions and whether the parents successfully completed the recommended treatment plan for the Department, CASA, and the Attorney ad Litem so the child advocates can confirm attendance and participation.

The Department will provide the therapist(s) with the Departments affidavit to notify the therapist(s) of the concerns in the case, and the Respondent Parents can provide information to their therapist(s) in response. The parties will request that the therapist(s) create a list of topics to address in therapy, and the therapist(s) will decide the duration of the therapy. Upon completion of therapy, the parties will request that the therapist(s) provide a summary of the treatment provided.

She will actively participate in individual therapy with their private therapist, [REDACTED], or a different provider approved by the Department

Target Date/Completed: 12/31/2021

Priority/Status: Initial

Court Yes

Ordered:

Resource Name:

Resource  
Phone:

Ext:

Resource Address

1:

Resource City:

Resource Address

2:

Zip:

### Parenting Skills

Mr. [REDACTED] was court ordered to complete a nurturing parenting program to build on his knowledge related to [REDACTED]'s needs and help support her learning, growth, and development. It appears Mr.

## FAMILY PLAN

Reunification

Case Name: [REDACTED]

Case Number: [REDACTED]

Cause Number: [REDACTED]

[REDACTED] displays adequate parenting skills that are developmentally appropriate for his child in the areas of expectations, discipline, communication, etc.

### Required Action:

Mr. [REDACTED] will participate in nurturing parenting classes and provide proof of completion to the Department, CASA, and the Attorney ad Litem.

It is ordered that the Respondent Parents may find their own service providers who provide a substantially similar curriculum to Department providers, so long as the Department, CASA, and the Attorney ad Litem are provided with a copy of the curriculum.

Mr. [REDACTED] will attend, participate in, and successfully complete the Nurturing Parenting Program (at the treatment level) through one of the following providers and, upon completion, be able to demonstrate the knowledge obtained:

Any Baby Can, 6207 Sheridan Avenue, Austin, Texas (phone: 512-454-3743),

Children First, (co-located with CPS at 14000 Summit Dr., Suite 100, Austin, Texas) (phone: 512-834-3864),

The SAFE Alliance (Strong Start Program), 4800 Manor Road, Austin, TX 78753 (phone: 512-264-4100) [www.projecthopesaustin.org](http://www.projecthopesaustin.org),

The SAFE Alliance (SAFE Futures Program / Fatherhood Services), 1515 Grove Blvd, Austin, TX 78741 (phone: 512-267-7233),

or another provider that runs the Nurturing Parenting Program model and curriculum at the treatment level to fidelity in an evidence-based manner. He may also complete this through his therapist if comparable to an evidence based program.

|                           |            |                          |                   |     |
|---------------------------|------------|--------------------------|-------------------|-----|
| Target<br>Date/Completed: | 12/31/2021 | Priority/Status: Initial | Court<br>Ordered: | Yes |
|---------------------------|------------|--------------------------|-------------------|-----|

|                |            |                    |      |
|----------------|------------|--------------------|------|
| Resource Name: | [REDACTED] | Resource<br>Phone: | Ext: |
|----------------|------------|--------------------|------|

|                        |                |
|------------------------|----------------|
| Resource Address<br>1: | Resource City: |
|------------------------|----------------|

|                        |      |
|------------------------|------|
| Resource Address<br>2: | Zip: |
|------------------------|------|

### Coping Skills/Mental Health

Mr. [REDACTED] has never been diagnosed with any mental health diagnoses, however the Department and the child advocates involved feel therapy would be supportive to him considering what he is going through with his family and the unexplained injuries [REDACTED] has. Mr. [REDACTED] does demonstrate emotions consistent with circumstances. He seems able to cope with crises and problems that arise. Therapy was ordered by the court.



## FAMILY PLAN

Reunification

Case Name: [REDACTED]

Case Number: [REDACTED]

Cause Number: [REDACTED]

### Required Action:

Mr. [REDACTED] will participate in individual therapy, and in couples therapy if recommended by their individual therapist(s), and sign a release of information limited solely to the dates and topics covered in sessions and whether the parents successfully completed the recommended treatment plan for the Department, CASA, and the Attorney ad Litem so the child advocates can confirm attendance and participation.

The Department will provide the therapist(s) with the Departments affidavit to notify the therapist(s) of the concerns in the case, and the Respondent Parents can provide information to their therapist(s) in response. The parties will request that the therapist(s) create a list of topics to address in therapy, and the therapist(s) will decide the duration of the therapy. Upon completion of therapy, the parties will request that the therapist(s) provide a summary of the treatment provided.

He will actively participate in individual therapy with their private therapist, [REDACTED], or a different provider approved by the Department.

|                        |            |                                 |                 |            |
|------------------------|------------|---------------------------------|-----------------|------------|
| <b>Target</b>          | 12/31/2021 | <b>Priority/Status:</b> Initial | <b>Court</b>    | <b>Yes</b> |
| <b>Date/Completed:</b> |            |                                 | <b>Ordered:</b> |            |

|                                  |                 |             |
|----------------------------------|-----------------|-------------|
| <b>Resource Name:</b> [REDACTED] | <b>Resource</b> | <b>Ext:</b> |
|                                  | <b>Phone:</b>   |             |

|                         |                       |
|-------------------------|-----------------------|
| <b>Resource Address</b> | <b>Resource City:</b> |
| <b>1:</b>               |                       |

|                         |             |
|-------------------------|-------------|
| <b>Resource Address</b> | <b>Zip:</b> |
| <b>2:</b>               |             |

### CHILD(REN) NEEDS AND ACTIONS TO ADDRESS:

[REDACTED]

#### Physical Health/Physical Disability

[REDACTED] is generally in good health, and up to date on shots and check ups, however she is dealing with unexplained fractures to her wrist, upper arm, clavicle, and her femur, which required surgery. The parents are on top of keeping up with her current medical needs and have a follow up appointment with Dr. Kaufner, and the Department will continue to monitor her healing. Her parents are seeking additional testing and getting a second opinion to search for a cause.

### Required Action:

Mr. and Mrs. [REDACTED] will comply with any medical follow ups as recommended by Dr. Brian Kaufman, Dr. Gary Brock, or Dr. Ashley Gonzales, notify the Department, CASA, and the Attorney ad Litem of any scheduled appointments, and sign a release of information for any new medical providers the Child sees during the pendency of this case. Mr. and Mrs. [REDACTED] will ensure that Dr.

## FAMILY PLAN

Reunification

Case Name: [REDACTED]

Case Number: [REDACTED]

Cause Number: [REDACTED]

Ashley Gonzales or any other pediatrician the child sees during the pendency of this case is aware of the Child's previous medical history.

Target Date/Completed: 12/31/2021

Priority/Status: Initial

Court Ordered: Yes

Resource Name: Listed above

Resource Phone:

Ext:

Resource Address 1:

Resource City:

Resource Address 2:

Zip:

### DID THE PARENT(S) PARTICIPATE AND SIGN? No

If parent(s) did not participate and/or sign, please explain:

Mr. and Mrs. [REDACTED] have not yet signed the family plan, and a copy of this document will be uploaded in One Case if and when they sign the document.

### PARENT(S) COMMENTS AND/OR CONCERNS REGARDING THE FAMILY PLAN:

There are no comments at this time, and if needed will be added in when signing the plan. This plan reflects the court orders for these clients.

Contact Person- For information about the Family Service Plan or your child(ren), please contact

NAME OF CONTACT: Choats, Brittney M

TELEPHONE: (512) 960-9299

EXT:

## FAMILY PLAN

Reunification

Case Name: [REDACTED]

Case Number: [REDACTED]

Cause Number: [REDACTED]

### PARENT(S) ACKNOWLEDGEMENT

1. I understand the Texas Department of Family and Protective Services (DFPS) has determined that one of the following emergency conditions continues to exist in my family, and therefore services continue to be necessary:

- A) A child is at risk of abuse and or neglect, as determined by DFPS;
- B) A child has been removed from his/her home and placed in DFPS care; or
- C) A child formerly in DFPS care is at-risk of being returned to DFPS care.

2. TO THE PARENT: THIS IS A VERY IMPORTANT DOCUMENT. ITS PURPOSE IS TO HELP YOU PROVIDE YOUR CHILD WITH A SAFE ENVIRONMENT WITHIN THE REASONABLE PERIOD SPECIFIED IN THE PLAN. IF YOU ARE UNWILLING OR UNABLE TO PROVIDE YOUR CHILD WITH A SAFE ENVIRONMENT, YOUR PARENTAL AND CUSTODIAL DUTIES AND RIGHTS MAY BE RESTRICTED OR TERMINATED OR YOUR CHILD MAY NOT BE RETURNED TO YOU. THERE WILL BE A COURT HEARING AT WHICH A JUDGE WILL REVIEW THIS SERVICE PLAN.

3. I understand that if I have one or more children at home with me and if I am unwilling/unable to provide a safe environment for my child(ren) with the help of DFPS services, that the plan will be removal and placement of my child(ren) into foster care.

4. I understand my progress on this plan will be evaluated as follows:

- A) Have I completed my tasks in the plan?
- B) Have I achieved my goals in the plan?
- C) Can I provide for the ongoing safety and well-being of my child(ren)?

5. I understand information for the evaluation of my progress may come from any and all of the following sources:

- A) Me;
- B) My family members;
- D) The initial report or future reports of child abuse and/or neglect; and
- E) Other agencies, individuals, and community.

6. I understand I may request a review or change of this plan or an evaluation of my progress at any time. I may also request an administrative review if I have a complaint about Child Protective Services. I may also request a fair hearing if services I have requested are denied, reduced or terminated, or if Child Protective Services does not act on my request for services with reasonable promptness.

7. I understand that I can request interpreter or translator services if needed to assist me in complying with this plan.

\_\_\_\_\_  
Signature-Parent

\_\_\_\_\_  
Date:

\_\_\_\_\_  
Date Copy Given:



## FAMILY PLAN

Reunification

Case Name: [REDACTED]  
Case Number: [REDACTED]  
Cause Number: [REDACTED]

Signature-Parent

Date:

Date Copy Given:

Signature-Worker

Date:

Signature-Supervisor

Date:

### RELATIVES, FRIENDS AND PROFESSIONALS SIGNATURES:

In some cases, the Family Service Plan may be utilized in relation with a court action. Only the parties having a legal relationship with the court may be held accountable to the tasks herein. Nonetheless, by your signature you are indicating that you care about the issues discussed in this document and that you have agreed to assist and participate in some way to help resolve the safety, permanency, and well-being issues for the child(ren) involved.

Name (print)

Signature

Date

Name (print)

Signature

Date

Name (print)

Signature

Date

Name (print)

Signature

Date

Name (print)

Signature

Date

Name (print)

Signature

Date

Name (print)

Signature

Date

## FAMILY PLAN

Reunification

Case Name: [REDACTED]

Case Number: [REDACTED]

Cause Number: [REDACTED]

Name (print)

Signature

Date

Name (print)

Signature

Date

Name (print)

Signature

Date

Signature-Facilitator

Date

Signature-Facilitator

Date

## FAMILY PLAN

Reunification

Case Name: [REDACTED]

Case Number: [REDACTED]

Cause Number: [REDACTED]

### Permanency Goal and Concurrent Goal: DFPS plans and backup plans for your child

DFPS wants children to be happy in a permanent, safe and loving place after they leave foster care. To achieve this, DFPS creates something for each child called a Plan of Service. This defines the child's Permanency Goal and Concurrent Goal.

A goal means where the child will live when DFPS services are done. DFPS must think about these issues for where the child will live:

- Will the child be safe?
- Is it family-like?
- Will it be forever--a permanent relationship as the young person matures through the years?

The Permanency Goal is the plan DFPS thinks would be best. If it cannot be done, DFPS also has a backup plan called the Concurrent Goal. There can be more than one backup plan. DFPS works on the Concurrent Goal at the same time as the Permanency Goal.

DFPS could choose the following goals for your child, as either a Permanency Goal or a Concurrent Goal:

**Family Reunification** - The parent gets the child back. This may be the parent the child was living with before DFPS care or it may be a parent the child was not living with.

**Alt Family: Relative/Fictive Kin, Adoption** - A relative, close family friend or a person/family already known to the family or child adopts the child. For this to happen, the court has to end parental rights of both parents or accept the parents giving up their parental rights.

**Alt Family: Relative/Fictive Kin, Conservatorship** - A relative, close family friend or a person/family already known to the family or child gets permanent custody of the child.

**Alt Family: Unrelated, Adoption** - The family who did not know the child before foster care adopts the child. For this to happen, the court has to end parental rights of both parents or the parents give up their parental rights.

**Alt Family: Unrelated, Conservatorship** - A person who is not a relative or kinship caregivers gets permanent custody of the child.

**APPLA: Foster Family, DFPS Conservatorship** - DFPS gets permanent custody of the child. The child would live in a foster home until he or she reaches adulthood. For this to happen, the court may or may not end parental rights of both parents or the parents may or may not give up their parental rights.

**APPLA: Other Family, DFPS Conservatorship** - DFPS gets permanent custody of the child. The child would live in the least restrictive and most family-like setting possible. For this to happen, the court may or may not end parental rights of both parents or the parents may or may not give up their parental rights.

**APPLA: Independent Living** - The youth would be in DFPS care until he or she is age 18.

**APPLA: Community Care** - A youth with a developmental disability would stay in DFPS care until age 18.

## **FAMILY PLAN**

Reunification

Case Name: [REDACTED]

Case Number: [REDACTED]

Cause Number: [REDACTED]

When these youth reach adulthood, a legal guardian will need to look after their well-being.

Alt Family = Alternative Family

APPLA = Another Planned Permanent Living Arrangement



Received & Filed 7/7/2017 3:09 PM  
Marc Hamlin, District Clerk  
Brazos County, Texas  
Makayla Higgins  
Envelope# - [REDACTED]

Case Name: [REDACTED]

Case #: [REDACTED]

**FAMILY SERVICE PLAN**  
Substitute Care  
Family Group Decision Making

**IDENTIFYING INFORMATION:**

Name(s) of Parent(s)

Name(s) of Child(ren)

**PLAN DATES:**

Plan Completed/Conference Date:

7/3/2017

Month/Year of Next Review:

11/2017

**PERMANENCY GOALS: (See last page for definitions.)**

| Child's Name | Permanency Goal                            | Target Date |
|--------------|--|-------------|
| [REDACTED]   | Alt Family: Relative/Fictive Kin, Adoption | 5/21/2018   |

**PARTICIPANTS (Principals and Collaterals on case):**

| Name       | Relationship |
|------------|--------------|
| [REDACTED] | Parent       |

**OTHER PARTICIPANTS:**

Madison Gressett (CPS investigator), Lacey McAnelly (CPS caseworker), Kelly Allen (CPS supervisor), Kathleen Cline (Attorney ad litem), [REDACTED] (maternal aunt), [REDACTED] (father), Ray Thomas (Parents' attorney), Melba Galls (FGC facilitator)

**REASON FOR CHILD PROTECTIVE SERVICES INVOLVEMENT:**

Intake 4/25/2017 regarding physical abuse of newborn [REDACTED] by his mother, [REDACTED]. On 4/24/17 Ms. [REDACTED] gave birth to [REDACTED] at home. Ms. [REDACTED] tested positive for opiates and amphetamines on a urine drug screen in the hospital. Ms. [REDACTED] denied any illegal drug use during pregnancy, stated she had been prescribed an inhaler and cough medicine. [REDACTED] completed a UA for CPS and it was inconclusive and positive for Methadone. Mr. [REDACTED] complete a drug screen and was negative. 5/1/17 CPS obtained meconium screen results and it was positive for methamphetamines, amphetamines, benzodiazepines, barbiturates, opiates, and methadone. 5/12/17 There are concerns with the conditions of the home, the home was unsafe for [REDACTED] during the investigation. A family team meeting was held, an agreement wasn't reached regarding [REDACTED]'s safety. Extended family were not responsive or was not appropriate for placement [REDACTED] has previous CPS history regarding drug use. Ms. [REDACTED] continues to use drugs and unable to safely care for [REDACTED]. Mr. [REDACTED]'s home appeared to be physically unsafe and he continues to reside with Ms. [REDACTED].

**FAMILY STRENGTHS AND SUPPORTS:**

- [REDACTED], father, has stable income.
- [REDACTED], father, has a stable home environment.
- [REDACTED], father, has reliable transportation.

Case Name: [REDACTED]  
Case #: [REDACTED]

**FAMILY SERVICE PLAN**  
**Substitute Care**  
**Family Group Decision Making**

- [REDACTED], mother, is in out-patient treatment at this time. Attends individual chemical dependency counselor.
- Extended family support system.

**COMMUNITY SUPPORTS:**

CPS will refer the parents to resources in the area where they reside.

Drug tests  
Anytime analysis  
1507 South College Avenue  
Bryan, TX 77801

BVCASA  
Administration, Prevention, and Outpatient Treatment Physical Address:  
4001 E. 29th Street, Suite 90  
Bryan, TX 77802

**HOPES AND DREAMS FOR THE CHILD(REN):**

- [REDACTED], father, would like to raise [REDACTED] with maternal aunt's help.
- Parents attorney would like for [REDACTED] to be placed with the father. Mother will join the family when she completes her drug rehabilitation.
- Attorney ad litem hopes for [REDACTED] to be in a safe and stable home.

**PARENT(S) RESPONSIBILITIES RELATED TO CHILD(REN)'S EDUCATION:**

The parents will assist as needed in helping the children reach their full potential developmentally and educationally. They will engage them in age appropriate activities during visits and learn what age appropriate milestones are developmentally expected.

**FAMILY AND CPS CONCERNS RELATED TO RISK AND SAFETY:**

**Initial Concerns:**

**SERVICE PLAN GOALS (CHANGES NEEDED TO REDUCE RISK):**

Parents will provide a safe and stable home environment.

Parents will provide for the children's basic needs.

Parents will continue contact with CPS.

Parents will continue contact with the children.

Parents will be emotionally and mentally stable.

**TASKS AND SERVICES:**



Case Name: [REDACTED]  
Case #: [REDACTED]

**FAMILY SERVICE PLAN**  
**Substitute Care**  
**Family Group Decision Making**

| Task/Service including timeframes:   | Assigned To: | Completed / No Longer Needed: | Court Ordered For: | Date Created: |
|--|--------------|-------------------------------|--------------------|---------------|
| [REDACTED] and [REDACTED] will obtain and maintain a safe and stable home environment.<br>*Parents will allow CPS caseworker to make home visits announced and unannounced   | Parents      | No                            | Parents            | 7/3/2017      |
| [REDACTED] and [REDACTED] will obtain and maintain a stable and legitimate income.<br>*Parents will provide CPS copies of pay stubs monthly.   | Parents      | No                            | Parents            | 7/3/2017      |
| [REDACTED] and [REDACTED] will submit to random drug tests as requested by CPS.<br>*Drug tests will be completed within 24 hours of request if not completed within 24 hours the tests will be counted as a positive result. | Parents      | No                            | Parents            | 7/3/2017      |
| [REDACTED] and [REDACTED] will contact CPS caseworker at least twice a month.<br>*Notify CPS within 48 hours of address and/or phone number changes.   | Parents      | No                            | Parents            | 7/3/2017      |
| [REDACTED] and [REDACTED] will complete a drug and alcohol assessment and follow recommendations.  | Parents      | No                            | Parents            | 7/3/2017      |
| [REDACTED] and [REDACTED] will attend supervised visits with [REDACTED] as approved and scheduled by CPS.  | Parents      | No                            | Parents            | 7/3/2017      |
| [REDACTED] and [REDACTED] will sign releases of information with service providers in order to allow CPS to access information with service providers.   | Parents      | No                            | Parents            | 7/3/2017      |
| [REDACTED] and [REDACTED] will complete a psychological evaluation and follow recommendations.   | Parents      | No                            | Parents            | 7/3/2017      |
| [REDACTED] and [REDACTED] will complete a parenting assessment and follow recommendations.   | Parents      | No                            | Parents            | 7/3/2017      |
| [REDACTED] will complete an MHMR assessment and follow recommendations.  | Parents      | No                            | Parents            | 7/3/2017      |
| [REDACTED] and [REDACTED] will attend individual counseling and follow recommendations.<br>*included but not limited to parenting classes.   | Parents      | No                            | Parents            | 7/3/2017      |
| [REDACTED] will successfully complete in patient treatment at Santa Maria and follow recommendations.<br>[REDACTED] will complete out-patient treatment at Santa Maria or BVCASA.  | Parents      | No                            | Parents            | 7/3/2017      |
| [REDACTED] ? [REDACTED] and [REDACTED] will live a criminal free lifestyle.  | Parents      | No                            | Parents            | 7/3/2017      |
| Paternity needs to be established for [REDACTED].  | Parents, CPS | No                            | Parents, CPS       | 7/3/2017      |

|            |  |
|------------|--|
| Case Name: |  |
| Case #:    |  |

**FAMILY SERVICE PLAN**  
**Substitute Care**  
**Family Group Decision Making**

**CONCERNS RELATED TO PLAN CREATION OR PARENT SIGNATURE:**

**PARENT(S) COMMENTS** (Parent may include comments regarding this Family Service Plan):

**Contact Person** - For information about the Family Service Plan or your child(ren), please contact:

|   |   |
|---|---|
| <b>Name of Contact:</b><br>Lacey Mcanelly | <b>Telephone:</b><br>(979) 776-7471 Ext |
|---|---|



Case Name: [REDACTED]

Case #: [REDACTED]

**FAMILY SERVICE PLAN**  
**Substitute Care**  
**Family Group Decision Making**

**PARENT(S) ACKNOWLEDGEMENT**

1. I understand the Texas Department of Family and Protective Services (FPS) has determined that one of the following emergency conditions continues to exist in my family, and therefore services continue to be necessary:

- A) A child is at risk of abuse and or neglect, as determined by FPS;
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- C) A child formerly in FPS care is at-risk of being returned to FPS care.

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3. I understand that if I have one or more children at home with me and if I am unwilling/unable to provide a safe environment for my child(ren) with the help of DFPS services, that the plan will be removal and placement of my child(ren) into foster care.

4. I understand my progress on this plan will be evaluated as follows:

- A) Have I completed my tasks in the plan?
- B) Have I achieved my goals in the plan?
- C) Can I provide for the ongoing safety and well-being of my child(ren)?

5. I understand information for the evaluation of my progress may come from any and all of the following sources:

- A) Me;
- B) My family members;
- C) Child Protective Service staff who have worked with me;
- D) The initial report or future reports of child abuse and/or neglect; and
- E) Other agencies, individuals, and community professionals.

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7. I understand that I can request interpreter or translator services if needed to assist me in complying with this plan.

|                             |               |                          |
|-----------------------------|---------------|--------------------------|
| _____<br>Signature - Parent | _____<br>Date | _____<br>Date Copy Given |
|-----------------------------|---------------|--------------------------|

|                             |               |                          |
|-----------------------------|---------------|--------------------------|
| _____<br>Signature - Parent | _____<br>Date | _____<br>Date Copy Given |
|-----------------------------|---------------|--------------------------|

|                             |               |                          |
|-----------------------------|---------------|--------------------------|
| _____<br>Signature - Parent | _____<br>Date | _____<br>Date Copy Given |
|-----------------------------|---------------|--------------------------|

|                             |               |                          |
|-----------------------------|---------------|--------------------------|
| _____<br>Signature - Parent | _____<br>Date | _____<br>Date Copy Given |
|-----------------------------|---------------|--------------------------|

|                      |               |                    |               |
|----------------------|---------------|--------------------|---------------|
| <u>L.M. McShally</u> | <u>7/7/17</u> | <u>[Signature]</u> | <u>7-7-17</u> |
|----------------------|---------------|--------------------|---------------|

Case Name: [REDACTED]  
Case #: [REDACTED]

**FAMILY SERVICE PLAN**  
**Substitute Care**  
**Family Group Decision Making**

Signature - Worker

Date

Signature - Supervisor

Date

**RELATIVES, FRIENDS, AND PROFESSIONALS' SIGNATURES:** In some cases, the Family Service Plan may be utilized in relation with a court action. Only the parties having a legal relationship with the court may be held accountable to the tasks herein. Nonetheless, by your signature you are indicating that you care about the issues discussed in this document and that you have agreed to assist and participate in some way to help resolve the safety, permanency, and well being issues for the child(ren) involved.

|                                   |                    |               |
|-----------------------------------|--------------------|---------------|
| _____<br>Name (Print)             | _____<br>Signature | _____<br>Date |
| _____<br>Name (Print)             | _____<br>Signature | _____<br>Date |
| _____<br>Name (Print)             | _____<br>Signature | _____<br>Date |
| _____<br>Name (Print)             | _____<br>Signature | _____<br>Date |
| _____<br>Name (Print)             | _____<br>Signature | _____<br>Date |
| _____<br>Name (Print)             | _____<br>Signature | _____<br>Date |
| _____<br>Name (Print)             | _____<br>Signature | _____<br>Date |
| _____<br>Name (Print)             | _____<br>Signature | _____<br>Date |
| _____<br>Name (Print)             | _____<br>Signature | _____<br>Date |
| _____<br>Name (Print)             | _____<br>Signature | _____<br>Date |
| _____<br>Signature Facilitator    | _____<br>Date      |               |
| _____<br>Signature Co-Facilitator | _____<br>Date      |               |

**Agreement for Parental Child Safety  
Placement (PCSP)**

Parent's Name [REDACTED]

Date of PCSP: 07/24/2018

Voluntary Caregiver's Name [REDACTED]

**Child(ren)**

| Name       | Age | Current PCSP Address |
|------------|-----|----------------------|
| [REDACTED] | 5m  | [REDACTED]           |
| [REDACTED] | 2   | [REDACTED]           |
|            |     |                      |
|            |     |                      |
|            |     |                      |

**Why is this PCSP necessary?**

Explanation to the parent/caregiver about the requirement for a Parental Child Safety Placement (PCSP): Mr. and Mrs. [REDACTED] are the primary caregiver to the two children [REDACTED] and [REDACTED]; the child [REDACTED] sustained serious head trauma while in the care of Mrs. [REDACTED]. Medical professionals reported concerns of abuse to the agency due to a lack of explanation given regarding the multiple injuries the child sustained and also reported that the explanation given is not consistent with the injuries.

**What are the rules for parent- child visits?**

Voluntary Caregiver and Parent agreement for Child Contact Plan:

How often is contact: Contact as much as possible to ensure the children bond with parents

Who will supervise contact: Mr and Mrs. [REDACTED] will supervise all contact between the children [REDACTED] and [REDACTED] during visits with their parents Mr. and Mrs. [REDACTED]

Detailed explanation of any conditions surrounding contact (e.g. sobriety of parent, where contact may take place, time restrictions) and what type of supervision, if necessary, is requested from the Voluntary Caregiver during the parent-child contact: Mr. and Mrs. [REDACTED] will dictate visitation hours and times; There will be no overnight stays between the two children [REDACTED] and [REDACTED] with their parents Mr. and Mrs. [REDACTED] until further notice .

*No visitation plan should violate a court order. If there is a court custody and visitation order, all parents included in the court order(s) must sign this PCSP agreement. If any party refuses to sign the agreement, a staffing with legal must be held to determine the appropriateness of a removal.*

**Caregiver's Duties** - Detailed explanation of the roles/responsibilities of the PCSP caregiver during the placement (ex. Taking child to appointments, supporting parents, contact w/CPS caseworker, notifying the caseworker before any change is made in the PCSP, etc).

The caregiver is responsible for: Informing the Department of changes or concerns. Meeting the child's basic needs.Follow - up with appointments with medical professionals

Plan for meeting Child's needs:

Who is responsible for educational needs and school related issues and how will the plan be accomplished: The children are not school age



**Agreement for Parental Child Safety  
Placement (PCSP)**

Who is responsible for meeting child's medical needs and how will the plan be accomplished (e.g. is there a Nonparent Authorization agreement in effect, will the parent consent, etc.): Mr. and Mrs. [REDACTED] will be responsible for making doctor appointments for the children and ensure the children attend the appointments made. Mr. and Mrs. [REDACTED] are responsible for providing any details regarding the children's appointments.

Other specific needs of the child and description of how the needs will be met: Mr. and Mrs. [REDACTED] will ensure the caregivers have all documentation and insurance information to ensure the children's needs are met; Mr. and Mrs. [REDACTED] will be accompanied to any and all doctor appointments with the children.

**Parent Duties** - Detailed explanation of the roles/responsibilities of the parents during the placement (ex., supporting caregiver financially or emotionally, contact w/CPS caseworker, notifying the caseworker before any change is made in the PCSP, etc).

The parents/mother/father is responsible for: Mr. and Mrs. [REDACTED] will provide clothing and all necessary things to ensure that all children are cared for and Mr. and Mrs. [REDACTED] will maintain contact with caseworker at all times.

**CPS Duties:**

CPS agrees to do the following (ex: frequency of contact with each party, supervise visits if needed, provide services, etc.): CPS will make contact with the family every 10 days and provide services as needed.

This agreement is anticipated to last no more than 90 days, with an anticipated ending date on or before 10/24/2018.

Voluntary Caregiver manual provided to the PCSP caregiver. Provided to [REDACTED]

Completed PCSP Form 2298 given to the parents. 07/24/2018

Completed PCSP Form 2298 given to the voluntary caregiver. 07/24/2018

**Before agreeing to this plan, parents and caregivers should consider the following:**

**NOTICE to Voluntary Caregiver:** If the parent is unable to develop a safe environment for the child and a court names CPS as the child's legal conservator, you will be given priority consideration as a placement for the child if you agree and continued placement is determined to be safe. However, if you or others in your home have any criminal history or child abuse or neglect history, it is possible that this history would make you ineligible to become a foster or adoptive parent, or to receive any benefits under the Department's foster care, adoption assistance, permanency care assistance, or kinship care programs. If you have concerns about this issue, please discuss them with the child's caseworker.

**Signatures** - By signing this form, the parents and the voluntary caregiver are agreeing to the specified plan for the parental child safety placement.

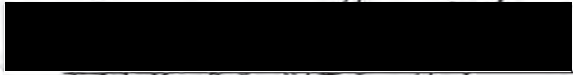
**NOTE TO PARENTS:** YOUR AGREEMENT TO THE PARENTAL CHILD SAFETY PLACEMENT IS NOT AN ADMISSION OF CHILD ABUSE OR NEGLECT ON YOUR PART AND CANNOT BE USED AGAINST YOU AS AN ADMISSION OF CHILD ABUSE OR

Parent's Signature

Date

7/24/18

**Agreement for Parental Child Safety  
Placement (PCSP)**

  
Parent's Signature

7/24/2018  
Date

Voluntary Caregiver Signature

Date

  
Voluntary Caregiver Signature

24 July 2018  
Date

CPS has approved this agreement. If there are any concerns, problems, questions about this agreement, please contact the caseworker or supervisor listed below:

Lavarvia Jones  
Caseworker Name

7/24/18  
Date

832-652-1674  
Office Phone number

Diesha Edwards  
Supervisor's Name

7/24/18  
Date

832-361-4735  
Office Phone number

Lashonna Beaudoin  
PD Giving Verbal Approval

7/24/18  
Date

832-454-4512  
Office Phone number



# App. D







## Texas Department of Family and Protective Services

COMMISSIONER  
Jaime Masters



Mailing Date: 12/16/2021

Re: Case# [REDACTED]

Dear [REDACTED] :

The Department of Family and Protective Services (DFPS) has completed its investigation into allegations reported on [REDACTED] that you were responsible for the abuse or neglect of one or more children and made the following findings:

| <i>Alleged Perpetrator</i> | <i>Alleged Type of Abuse or Neglect</i> | <i>Alleged Victim</i> | <i>Finding</i>    |
|----------------------------|---|-----------------------|-------------------|
| [REDACTED]                 | Physical Abuse                          | [REDACTED]            | Reason to Believe |

This investigation is now closed and there will be no further agency involvement with the family unless we receive another report of abuse or neglect, which, by law, we would need to investigate.

### **How Findings are Determined.**

- A finding of "**Reason to Believe**" means that a preponderance of the evidence supports that the alleged abuse or neglect did occur.

### **How Certain Types of Abuse or Neglect are Defined.**

**Physical Abuse** includes the following acts or omissions by a person:

- physical injury that results in substantial harm to the child, or the genuine threat of substantial harm from physical injury to the child, including an injury that is at variance with the history or explanation given and excluding an accident or reasonable discipline by a parent, guardian, or managing or possessory conservator that does not expose the child to a substantial risk of harm; or
- failure to make a reasonable effort to prevent an action by another person that results in physical injury that results in substantial harm to the child; or
- the current use by a person of a controlled substance as defined by Chapter 481, Health and Safety Code, in a manner or to the extent that the use results in physical injury to a child; or
- causing, expressly permitting, or encouraging a child to use a controlled substance as defined by Chapter 481, Health and Safety Code.

Because the finding(s) is "reason to believe", DFPS placed your name in the DFPS Central Registry, a private

database of the names of persons who have been found to have abused or neglected a child in Texas. Having your name placed in the DFPS Central Registry may prevent you from working, volunteering, or being present in licensed child-care related occupations, including any current employment in licensed child care. It may also prevent you from becoming a foster or adoptive parent. It may also adversely impact your ability to obtain employment at any place that conducts a check of the DFPS Central Registry as part of a background check.

**Right to Administrative Review.** You have the right to request an administrative review of any "Reason to Believe" finding made against you. To request an administrative review, complete and submit the attached form within forty-five (45) calendar days after the date at the top of this letter. Prior to requesting the review, I encourage you to discuss your concerns with me or with my supervisor. An administrative review may be delayed or denied due to a criminal investigation or court case relating to this investigation. DFPS rules regarding the administrative review process are located in 40 Administrative Code §707.505, which is found at: [https://texreg.sos.state.tx.us/public/readtac\\$ext.TacPage?sl=R&app=9&p\\_dir=&p\\_rloc=&p\\_tloc=&p\\_ploc=&pg=1&p\\_tac=&ti=40](https://texreg.sos.state.tx.us/public/readtac$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=40). If the administrative review upholds any of the "reason to believe" findings(s) made against you, you may continue to appeal the finding through the Office of Consumer Affairs. You can find the procedure for filing this appeal in 40 Texas Administrative Code Section 702.841 - 702.849 which can be found online at [https://texreg.sos.state.tx.us/public/readtac\\$ext.viewtac](https://texreg.sos.state.tx.us/public/readtac$ext.viewtac).

**Right to Request Records.** You have the right to request a copy of the investigation records. The records will be redacted to remove the identity of the person who reported the alleged abuse or neglect and any other information which you are not entitled by law to receive. Release of records may be delayed or denied if the release would interfere with an ongoing criminal investigation or for other valid legal reason. You may be charged a fee for copies of these records. You may contact me to obtain a copy of the form needed to request these records or, you may obtain a copy of this form at:

[http://www.dfps.state.tx.us/Site\\_Map/forms.asp](http://www.dfps.state.tx.us/Site_Map/forms.asp)

**Release of Finding to Outside Parties.** If you are an employee of school under the jurisdiction of the Texas Education Agency (TEA), DFPS will release a copy of the completed investigation report to TEA as required by Texas Family Code §261.406 and Texas Administrative Code §700.411.

If you are an employee of a school that is not under the jurisdiction of TEA, DFPS will not automatically release the results of the investigation to school personnel. Prior to releasing the results, DFPS follows procedures for Release Hearings as provided in 40 Texas Administrative Code, Chapter 700, Subchapter F.

If you have any questions or concerns regarding the investigation or any of the information discussed in this letter, you may contact me at the address or phone number provided below.

Dwayne M Dodds  
1110 AVENUE G  
ROSENBERG, TX 77471-2358  
(281) 216-9713

**Request For Administrative Review of Child Protective Investigations (CPI) Investigation Findings**

To:

A person has the right to request an administrative review of any "Reason to Believe" finding made against the person. To request an administrative review, complete and submit this form to the above address within forty-five (45) calendar days after the date at the top of the attached Notice of Findings of CPI Investigation letter. Prior to requesting the review, CPI encourages you to discuss your concerns with the caseworker or the caseworker's supervisor. CPI may delay or deny your request for an administrative review due to a criminal investigation or court case relating to this investigation. CPI rules regarding the administrative review process are located in 40 Texas Administrative Code §700.516.

**Regarding the Investigation for which You may Request an Administrative Review**

| <i>Case Name</i> | <i>Case Number</i> | <i>Stage Number</i> |
|------------------|--------------------|---------------------|
|                  |                    |                     |

**To be Completed by the Person Requesting the Administrative Review:**

|  |                                       |
|--|---------------------------------------|
| <i>Name</i>  | <i>Area Code and Telephone Number</i> |
|  |                                       |
| <i>Mailing Address(Street or P.O. Box, City, State, Zip)</i> |                                       |
|  |                                       |

*Make a short and direct statement why you disagree with the findings of the investigation:*

Signature - Person Requesting the Review

Date Request is Mailed or Given to CPI



**From:** [Ryann](#)  
**To:** [dfpscpiarifrequests@dfps.state.tx.us](mailto:dfpscpiarifrequests@dfps.state.tx.us)  
**Cc:** [Dennis](#); [Kathy Umana](#); [Jack Enright](#)  
**Subject:** [REDACTED]  
**Date:** Wednesday, January 26, 2022 8:44:00 AM  
**Attachments:** [image001.png](#)  
[image002.png](#)  
[ARIF Request.pdf](#)

---

Good Morning,

Please see attached the Administrative Review Request for the above mentioned case number.

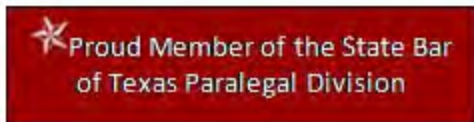
Please accept this email as our request to obtain the entire file for this case, including but limited to investigation reports, intake reports, photos, audio/video recordings, etc.

Please confirm receipt of this email and the attached request.

Ryann Tighe, Paralegal  
TBLS-BCP in Family Law  
**Slate & Associates**  
**Attorneys at Law**  
Phone: 281-476-9447  
(Fax) 281-476-5811



Texas Board of Legal Specialization  
**BOARD CERTIFIED PARALEGAL**



**Office Locations**

112 E. Forrest  
Deer Park, Texas 77536  
(Mailing Address)

1635 Dunlavy St.  
Houston, Texas 77006

1920 Country Place Pkwy  
Suite 410  
Pearland, Texas 77584

**THIS EMAIL ADDRESS DOES NOT ACCEPT TRCP RULE 21 SERVICE. PLEASE USE**  
[Service@Slatelaw.com](mailto:Service@Slatelaw.com) **for all Service documents.**

This transmission may be: (1) subject to the Attorney-Client Privilege, (2) an attorney work product, or (3) strictly confidential. If you are not the intended recipient of this message, you may not disclose, print, copy or disseminate this information. If you have received this in error, please reply and notify the sender (only) and delete the message. Unauthorized interception of this e-mail is a violation of federal criminal law.

**Request For Administrative Review of Child Protective Investigations (CPI) Investigation Findings**

To: [REDACTED]

A person has the right to request an administrative review of any "Reason to Believe" finding made against the person. To request an administrative review, complete and submit this form to the above address within forty-five (45) calendar days after the date at the top of the attached Notice of Findings of CPI Investigation letter. Prior to requesting the review, CPI encourages you to discuss your concerns with the caseworker or the caseworker's supervisor. CPI may delay or deny your request for an administrative review due to a criminal investigation or court case relating to this investigation. CPI rules regarding the administrative review process are located in 40 Texas Administrative Code §700.516.

**Regarding the Investigation for which You may Request an Administrative Review**

| Case Name  | Case Number | Stage Number |
|------------|-------------|--------------|
| [REDACTED] | [REDACTED]  | [REDACTED]   |

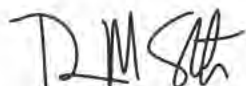
**To be Completed by the Person Requesting the Administrative Review:**

|   |                                |
|---|--------------------------------|
| Name  | Area Code and Telephone Number |
| Dennis M. State on behalf of [REDACTED]               | 281-476-9447                   |
| Mailing Address(Street or P.O. Box, City, State, Zip) |                                |
| 112 E. Forrest Lane, Deer Park, Texas 77536           |                                |

*Make a short and direct statement why you disagree with the findings of the investigation:*

Physical Abuse includes the following acts or omissions by a person:

- physical injury that results in substantial harm to the child, or the genuine threat of substantial harm from physical injury to the child, including an injury that is at variance with the history or explanation given and excluding an accident or
- reasonable discipline by a parent, guardian, or managing or possessory conservator that does not expose the child to a substantial risk of harm; or
- failure to make a reasonable effort to prevent an action by another person that results in physical injury that results in substantial harm to the child; or
- the current use by a person of a controlled substance as defined by Chapter 481, Health and Safety Code, in a manner or to the extent that the use results in physical injury to a child; or
- causing, expressly permitting, or encouraging a child to use a controlled substance as defined by Chapter 481, Health and Safety Code.



on behalf of [REDACTED]

Signature - Person Requesting the Review

01/26/2022

Date Request is Mailed or Given to CPI

██████ appeals this finding as it is unsupported by the actual facts of the case. ██████ is not entirely sure what this finding is based upon, but he believes it relates to a student in his class. ██████ denies any allegation that he physically abused ██████. The school conducted its own investigation into the only allegation of ██████ regarding ██████ claiming to have been hit, and could not substantiate the ██████. ██████ was stunned when he received the finding made by the CPS caseworker. Personnel at the school have relayed to ██████ that the caseworker never asked to view the school video footage of the incident and did not interview several other school personnel that have relevant information about the allegation the school investigated.

It is believed that a minor child accused ██████ of ██████ them in the classroom while he was teaching a lesson. ██████ strongly denies ever ██████. However, even if the minor child's accusation of ██████ as it was described by the school, the alleged actions would still fail to meet the elements for physical abuse under the aforementioned statutory definition as there is no allegation of any substantial harm made by the student or anyone else. These findings are supposed to be based on a preponderance of the evidence standard, meaning more evidence than not that not only did ██████, but also that the child received a substantial injury from that hit. There is no basis for finding that ██████ physically abused a minor child.

██████ reserves the right to amend or supplement this response once he receives a copy of the CPS file and is better able to ascertain the actual allegations against him.



## Texas Department of Family and Protective Services

**Commissioner**

*Jaime Masters, MS, MFT*

January 26, 2022

Dennis Slate, Attorney for [REDACTED]

Sent via email: dennis@slatelaw.com, ryann@slatelaw.com

Re: [REDACTED]

Dear Mr. Slate:

This correspondence is written in response to your recent request for an Administrative Review of Investigation Findings (ARIF), received 1/26/2022. In accordance with Texas Administrative Code Section 700.203, you and/or your representative are entitled to a redacted copy of the investigation case record before the ARIF meeting. As per your email request, you would like to review the case record prior to the ARIF being held.

I have submitted a request to our Records Management Group for a copy of redacted records to be mailed to you at the email address provided on the ARIF request. This records request should be processed in approximately 45 to 60 business days. After receipt of these records, you will have no more than forty-five (45) calendar days to contact me if you wish to proceed with the Administrative Review of Investigation Findings. At this time your request will be closed with documentation noting that you are waiting for your records before proceeding. The current findings on the case will remain unchanged. Any requests made outside of this timeframe will need to be reassessed for eligibility. If for any reason, you do not receive the records as requested within 45 to 60 business days, please contact the **Records Management Group at 1-877-764-7230** for an update regarding this records request. The reference id # is: [REDACTED]. If you have specific questions regarding how the investigation was handled, please contact the original investigator and/or supervisor that handled your case directly. If you have any questions regarding the ARIF process, please feel free to contact me at the address and/or phone number listed below.

Sincerely,

*Krista Rodriguez*

Office of Internal Affairs Resolution Specialist Region 06 A & B

Phone: 713-997-9319 Email: Krista.rodriguez@dfps.texas.gov

Cc: file



# App. E



NOTICE: THIS DOCUMENT CONTAINS SENSITIVE DATA

NO. [REDACTED]

IN THE INTEREST OF

[REDACTED]  
AND [REDACTED]

CHILDREN

§  
§  
§  
§  
§  
§

IN THE DISTRICT COURT

315<sup>th</sup> JUDICIAL DISTRICT

HARRIS COUNTY, TEXAS

**MOTION FOR SANCTIONS PURSUANT TO RULE 13**  
**OF THE TEXAS RULES OF CIVIL PROCEDURE AND MOTION FOR FEES AND**  
**COSTS PURSUANT TO SECTION 105.002 OF THE TEXAS CIVIL PRACTICE AND**  
**REMEDIES CODE**

TO THE HONORABLE JUDGE OF SAID COURT:

NOW COMES [REDACTED], Movant herein, and files this Motion for Sanctions Pursuant to Rule 13 of the Texas Rules of Civil Procedure and Motion for Fees and Costs Pursuant to Section 105.002 of the Texas Civil Practice and Remedies Code in the above-entitled and numbered cause and respectfully shows the honorable court the following:

I.

Under Rule 13 of the Texas Rules of Civil Procedure, the court shall impose an appropriate sanction when a party signs an instrument which is either groundless and brought in bad faith or groundless and brought for the purpose of harassment. These sanctions can be imposed upon the person who signed it, a represented party, or both.

Under Section 105.002 of the Texas Civil Practice and Remedies Code, a party to a civil suit in a court of this state brought by or against a state agency in which the agency asserts a cause of action against the party, either originally or as a counterclaim or cross claim, is entitled to recover, in addition to all other costs allowed by law or rule, fees, expenses, and reasonable attorney's fees incurred by the party in defending the suit:

1. the court finds that the action is frivolous, unreasonable, or without foundation; and
2. the action is dismissed or the judgment is awarded to the party.

II.

Texas Family and Protective Services (TDFPS) has violated Rule 13 of the Texas Rules of Civil Procedure and Section 105.002 of the Texas Civil Practice and Remedies Code.

Specifically, Sanctions are appropriate in this case as TDFPS violated Rule 13 of the Texas Rules of Civil Procedure and Section 105.022 of the Texas Civil Practice and Remedies Code as follows:

1. On July 18<sup>th</sup>, 2018 [REDACTED] was injured after falling from a “lawn chair” and hitting his head on the family home’s driveway.
2. [REDACTED] was taken to Texas Children’s Hospital (TCH) and was treated for a single injury to his head which was discovered by CT scan to be a skull fracture.
3. That day, the TCH Child Abuse Prevention Team (CAP) told CPS that the mother’s explanation was a likely possible explanation of the injury.
4. The next day, and MRI was conducted on the baby, it is was discovered that there was a 2<sup>nd</sup> smaller skull fracture on [REDACTED] and he had intracranial bleeding.
5. On July 19<sup>th</sup> the TCH Child Abuse Prevention Team (CAP) interviewed the parents, reviewed the records, and imaging, and determined that only one of the two skull fractures could be explained by the Mother’s explanation, and that Mother could not explain the subdural hemorrhaging at all.
6. The CAP team, without any medical explanation, then said the injuries were consistent with child abuse.
7. On July 19<sup>th</sup>, TDFPS put a safety plan in place with the parents that required a safety monitor to be with the children 24 hours a day, but the children could remain in the home with the parents. The monitor was [REDACTED] ([REDACTED]) the paternal grandmother.
8. On July 24<sup>th</sup>, without any other injury occurring to the child, TDFPS supervisor, Niesha Edwards (Edwards) unilaterally cancelled the safety plan and instituted a Parental Child Safety Placement (PCSP).
9. The PCSP required the children to move to the home of the maternal grandmother in Baytown. The Parents home is in Tomball. The parents were also, without explanation, no longer allowed to stay overnight with the children. The PCSP also required TDFPS to have contact with the family every 10 days.
10. On July 24<sup>th</sup>, the Hematology department at TCH determined that [REDACTED] has a blood disorder called Von Willibrand Disease type 1, which makes the baby’s blood slow to clot.
11. The baby began having difficulty absorbing his spinal fluid back into his body, which then created pressure in his brain. TCH decided that his a hole needed to be drilled

in his head to relieve the pressure. TDFPS was notified of the procedure, and subsequent checkups with doctors.

12. TDFPS next had contact with TDFPS on August 9<sup>th</sup>, 2018 when investigator Lavarvia Jones (Jones) visited the children at the [REDACTED] home. Jones was informed that the placement was taking a toll on her because the baby was not allowed to cry, at all, for fear of causing damage to his brain with pressure. That the child was waking up all throughout the night because he was not used to not being nursed by his mother so [REDACTED] could not get sleep. And that the continuous doctors appointments and distance to be traveled were taking their toll.
13. [REDACTED] and the parents asked for an end to the investigation, or to change the PCSP to [REDACTED] ([REDACTED]), the paternal Aunt. Jones suggested the family conduct a family team meeting (FTM) at the [REDACTED] home to resolve the issues.
14. A FTM took place on August 14<sup>th</sup> at the [REDACTED] home attended by Jones and Edwards on behalf of TDFPS. There is was agreed that the agency would staff the change with the program director and would have definitive answer no later than August 17<sup>th</sup>, 2018 and that the move to the [REDACTED] would occur on August 19<sup>th</sup>, 2018.
15. No confirmation was made by TDFPS on August 17<sup>th</sup>. Instead a litany of excuses was made by Jones as to why it was not approved.
16. [REDACTED] was again hospitalized to insert a shunt into his head to ensure the hole remained ipen to relieve the pressure in his head. This was a surgery that could have been avoided, had the family been able to keep the child calm, a fact that was made known to TDFPS during the FTM.
17. The parents asked TDFPS to hurry and approve the [REDACTED] home, so that when they were released from the hospital on August 22<sup>nd</sup> the baby could go straight to [REDACTED] home. Jones replied by text to the parents that going to the [REDACTED] from the hospital "should be fine."
18. When the baby was discharged the parents and [REDACTED], who had packed up all children's belongings, headed to the [REDACTED] home. While enroute, Jones called and rescinded the earlier approval he had given and said the PD still had not approved the change of PCSP.
19. The parents complied and turned around in traffic with a baby that had just had brain surgery and went back to [REDACTED]'s home.
20. In the days that followed the parents begged and pleaded with Jones to get the PCSP approved. [REDACTED] also tried to no avail to get the change approved. Jones was continually told that the family needed TDFPS support in order to continue

complying with the PCSP, or else it would be impossible to comply.

21. There were text messages and phone calls nearly every day asking Jones about the status of the Program Director approval, but nothing changed. The [REDACTED] home was never approved.
22. On August 28<sup>th</sup>, the Father, [REDACTED] (Father), told Jones during a phone call that since TDFPS had not complied with the FTM requirements nor any of the pleas of the family, that compliance with the PCSP was no longer feasible and that the family was bringing their children home.
23. Jones took down the information and relayed it to his supervisor, Edwards.
24. TDFPS took no action.
25. On September 14, 2018, Father called Jones and left him a voicemail explaining that the parents had received a written second medical opinion and that they wanted to provide it to TDFPS. Jones did not return the call.
26. On September 18, 2018 Jones text messaged the Mother, [REDACTED] (Mother), asking how the children were doing. Mother replied with their health information and sent photos of [REDACTED]. Jones then asked if he could come and see the children the next day at 5PM. Mother agreed and said she would have the children with her for him to see.
27. On September 19<sup>th</sup>, 2018 Jones went court and sought emergency managing conservatorship of the [REDACTED] children. An Original Petition for Protection of A Child, For Conservatorship, And For Termination In Suit Affecting the Parent-Child Relationship, attached hereto as **Exhibit "A"** and incorporated herein for all purposes and set forth as if verbatim was first filed by TDFPS. This instrument is frivolous, groundless and brought for the purpose of bad faith and for the purpose of harassment.
28. TDFPS filed their lawsuit at 12:20 PM. Jones purposely did not tell the [REDACTED]'s about the legal hearing, because he said "*there is nothing in the policy or the law that says we have to notify them (parents)*".
29. Jones says in his sworn affidavit that "there was an immediate and continuing danger to the physical health and/ or safety of the children; that there is not time for a full adversary hearing; and that reasonable efforts were made to eliminate and/or prevent the need to remove the children."
30. Jones removed the children in the middle of the night after he knew that had been in the parents' home for 22 days. Jones fails to inform the court in his affidavit he

knows the children have been back home for 22 days and he knows that they are in good health.

31. Jones says in his sworn affidavit that there is no evidence of any hematology issue that would explain the bleeding in [REDACTED]'s skull. Jones intentionally fails to tell the court about the hematology report that he was provided a copy of at the FTM.
32. Jones says in his sworn affidavit, that there was no medical explanation for the child two skull fractures. Jones fails to tell the court he has been given a copy of the medical expert second opinion obtained by the parents that does explain the second fracture.
33. Jones claims to attach a copy of a physician's report to his affidavit, but none is attached. Only a small portion of the child's medical record is attached that was completed on July 19, 2018, prior to the hematology report that was completed on July 24<sup>th</sup>, 2018.
34. Jones failed to contact a single physician to verify any of the medical explanations the parents provided him before filing the removal affidavit with the court. He admits to only having ever talked to a social worker, and that he relied on her to interpret the child's medical history and reports after the CAP had made its unsubstantiated diagnosis on July 19<sup>th</sup>, 2018.
35. TDFPS failed to follow the PCSP by maintaining contact with the parents every 10 days, or by changing the placement per the agreement in the FTM. Jones failed to notify the court of these facts when seeking removal in his sworn affidavit.
36. Jones intentionally waited until after 5:00 PM to remove the children to prevent legal action by the parents. Even though the parents were waiting on Jones for a "visit" at 5:00 PM, Jones without notice did not show up until 7:30 PM, when he arrived to remove the children.
37. When Jones was at the home to remove the children, [REDACTED] arrived and asked to have the children placed in her home. Even knowing the complicated medical issues with [REDACTED], Jones denied that request.
38. TDFPS removed the children at 10:00 PM on September 19<sup>th</sup>, 2018. Jones took the children to the Gessner TDFPS office and processed them into separate foster homes.
39. Jones was alerted to the fact that the two year old daughter, [REDACTED], had never slept in anything other than a crib or pack-n-play with sides. Within the first 24 hours in TDFPS custody, [REDACTED] was injured due to TDFPS negligence when according to Jones the little girl fell out of an elevated bed and struck her face on an unknown object. Red marks and bruising could be seen on the child three days later.

40. Jones failed to provide the statutorily required notice of removal on September 19th, 2018, and in the 24 hours after removal, even though the document was requested. Jones also did not provide a copy of the removal order to the parents at the time of removal.
41. TDFPS did not provide a notice of removal until the undersigned attorney contacted the agency and inquired as to why it had never been provided, on September 21, 2018.
42. The children were placed with [REDACTED] on September 22, 2018, but the parents were told they could not see the children except at the TDFPS office under TDFPS supervision for 1 hour per week. This was not for the safety of the children, but instead to punish the parents.
43. Texas Family and Protective Services' actions were groundless and brought for the purpose of bad faith and furthermore brought for the purpose of harassment.
44. Texas Family and Protective Services' actions caused extreme emotional anguish and financial hardship for Movant to defend himself from the baseless accusations.

#### IV.

The bad faith actions of TDFPS violates Rule 13 and Section 105.002 of the Texas Civil Practice and Remedies Code and therefore, the court should impose an appropriate sanction available under Rule 215 and any other appropriate sanctions. Furthermore, Texas Family and Protective Services are responsible for violating Rule 13 and Section 105.002 of the Texas Civil Practice and Remedies Code. The Texas Family and Protective Services failed to conduct a reasonable inquiry of this matter, failed to seek a Court order within the time limits prescribed by Texas Family Code section 262.201, failed to notify Movant of the emergency removal, and misrepresented to the Court the need for an emergency placement of the children, even though there was no danger to the health or safety of the children. Respondent knew that the children had been in Movant home for 22 days, and yet still sought emergency removal without notice the Movant or her husband. Movant posed no danger or potential harm to the children, and Respondent yet filed for emergency removal anyway.

#### V.

Recognizing the Court's broad authority under Rules 13 and 215.2(b) of the Texas Rules of Civil Procedure and Section 105.002 of the Texas Civil Practice and Remedies Code, to make such orders as are just, Movant respectfully submits that an appropriate sanction in this case would be to assess attorney's fees, expenses and sanctions against Respondent and enter such orders in regard to the Respondents' failure as the Court deems just.

#### VI.

Due to Respondents' acts described herein, Movant has incurred substantial expenses, including but not limited to attorney's fees. Under Rule 215.2(b)(8) of the Texas Rules of Civil



Procedure, Movant is entitled to recover reasonable expenses, including reasonable attorney's fees, incurred in obtaining an order for sanctions.

WHEREFORE, PREMISES CONSIDERED Movant prays that:

1. the Court sets this matter for hearing;
2. after notice and hearing, the Court imposes sanctions on Texas Family and Protective Services in accordance with Rules 13 and 215 of the Texas Rules of Civil Procedure;
3. after notice and hearing, the Court imposes sanctions on Texas Family and Protective Services in accordance with Section 105.002 of the Texas Civil Practice and Remedies Code;
4. Movant will be granted reasonable attorney's fees;
5. Movant will be granted reasonable expenses; and
6. Movant will be granted such other and further relief special or general, legal or equitable, as may be shown that Movant is justly entitled to receive.

SLATE & ASSOCIATES  
112 E. FORREST LANE  
DEER PARK, TEXAS 77536  
Tel: (281) 476-9447  
Fax: (281) 476-5811

By: /s/Dennis M. Slate

DENNIS M. SLATE  
State Bar No. 24029836  
SHAILEY GUPTA-BRIETZKE  
State Bar No. 24057445  
LAUREN F. DURSO  
State Bar No. 24036581  
ROBERT IAN KUEHM  
State Bar No. 24056965  
DANNIELLE SIMMS  
State Bar No. 24077267  
HEE JIN CHANG  
State Bar No. 24095935  
service@slatelaw.com  
Attorney for [REDACTED]

### **NOTICE OF HEARING**

The above and foregoing Motion is set for hearing on October 3, 2018 at 9:30 a.m.

### **CERTIFICATE OF SERVICE**

I certify that a true copy of the above was served on each attorney of record or party in accordance with the Texas Rules of Civil Procedure on October 3, 2018.

/s/ Dennis M. Slate

DENNIS M. SLATE

Email: [service@slatelaw.com](mailto:service@slatelaw.com)

Attorney for [REDACTED]

**VERIFICATION**

STATE OF TEXAS

§  
§  
§

COUNTY OF HARRIS

BEFORE ME, the undersigned authority, personally appeared DENNIS M. SLATE, who, on oath, stated that the statements made in the foregoing Motion for Sanctions Pursuant to Rule 13 of the Texas Rules of Civil Procedure and Section 105.002 of the Texas Civil Practice and Remedies Code are true and correct.

\_\_\_\_\_  
DENNIS M. SLATE

SUBSCRIBED AND SWORN TO BEFORE \_\_\_\_\_  
to certify which witness my hand and seal of office.

\_\_\_\_\_



# App. F



1 THE COURT: Would you mind grabbing her  
2 since I sent my bailiff to the back? Thank you,  
3 Mr. Nguyen.

4 You-all may be seated.

5 Same instructions apply as yesterday  
6 regarding not speaking at the same time as another  
7 attorney, okay; giving me an opportunity to rule on any  
8 objections before you proceed.

9 Okay. Mr. Slate, you may resume your  
10 cross-examination of this witness.

11 MR. SLATE: Thank you, Judge.

12 CROSS EXAMINATION CONTINUED OF CAROL JOHNSON  
13 BY MR. SLATE:

14 Q. Ms. Johnson, going back to the  
15 Respondent/Mother's Exhibit No. 10 we were discussing  
16 some yesterday. You said this was a document you  
17 prepared for what reason?

18 A. Monthly summary.

19 Q. Monthly summary?

20 A. Yes.

21 Q. Who do you turn the monthly summary into?

22 A. My supervisor.

23 Q. What do you do in making a monthly summary?  
24 How do you prepare it?

25 A. We have, like, an outline and we update any

10:58 1 changes that have been made throughout the case for that  
10:58 2 month.

10:58 3 Q. Okay. Here I'm going to show you the second  
10:58 4 page of that monthly summary. Do you see right here  
10:58 5 under the evaluation section, this paragraph right here?

10:58 6 A. Yes.

10:58 7 Q. Okay. It says, "Mom's been participating in  
10:59 8 her services. Due to her criminal case, the children  
10:59 9 will not be reunified with her."

10:59 10 A. Yes.

10:59 11 Q. Did you write that?

10:59 12 A. I don't know if I wrote that or if that's  
10:59 13 something I got from the previous monthly summary and  
10:59 14 just left it in.

10:59 15 MR. NGUYEN: Your Honor, may I take this  
10:59 16 worker on voir dire real quick?

10:59 17 MR. SLATE: I think he has to make an  
10:59 18 objection first.

10:59 19 THE COURT: On voir dire for what? What  
10:59 20 purpose?

10:59 21 MR. NGUYEN: Because I don't know if she is  
10:59 22 the one who wrote this summary.

10:59 23 THE COURT: She just testified that she  
10:59 24 did.

10:59 25 MR. NGUYEN: Okay. I apologize.



10:59 1 THE COURT: Okay. Mr. Slate.

10:59 2 Q. (BY MR. SLATE) Why -- or what about her --

10:59 3 Ms. [REDACTED]'s criminal case was preventing her from being  
10:59 4 reunified with her children?

10:59 5 A. This one was from May; so, we still didn't know  
10:59 6 the outcome or what was happening with it.

10:59 7 Q. So, if you knew an outcome -- let's say for  
11:00 8 instance, you knew the case had been dismissed, would  
11:00 9 that have altered CPS's opinion?

11:00 10 A. I'm not sure because it wasn't dismissed.

11:00 11 Q. That's not what I asked you.

11:00 12 If it had been dismissed, would that have  
11:00 13 altered the thinking regarding whether or not the  
11:00 14 children could be reunified?

11:00 15 MR. BOBBITT: Objection; speculation and  
11:00 16 relevance.

11:00 17 THE COURT: Sustained.

11:00 18 Q. (BY MR. SLATE) Would you have made a different  
11:00 19 recommendation if the case had been dismissed?

11:00 20 MR. BOBBITT: Objection to speculation,  
11:00 21 Judge.

11:00 22 MR. SLATE: It's whether or not she does,  
11:00 23 Judge. She can make a recommendation, if she knows.

11:00 24 THE COURT: Whether or not -- do you know  
11:00 25 whether or not you would have made a different

11:00 1 recommendation had the case been dismissed? Have you  
11:00 2 ever thought about that?

11:00 3 THE WITNESS: No.

11:00 4 Q. (BY MR. SLATE) In your mind, it didn't really  
11:00 5 matter what the status of the case was, you never even  
11:00 6 looked into or thought about if the case was dismissed,  
11:00 7 that you would change your opinion, right?

11:01 8 A. It never happened, so....

11:01 9 Q. That's not what I asked you, ma'am.

11:01 10 A. If the case were dismissed, would it have  
11:01 11 changed my opinion?

11:01 12 Q. Right.

11:01 13 A. No.

11:01 14 Q. So, the criminal case really isn't what was  
11:01 15 your guiding thought process behind Ms. [REDACTED] not being  
11:01 16 reunified with the children, right?

11:01 17 A. There's contributing factors.

11:01 18 Q. Is that a "yes" to my question? It wasn't the  
11:01 19 guiding principal?

11:01 20 A. No.

11:01 21 Q. What was the guiding principal?

11:01 22 A. What the kids had said.

11:01 23 Q. About what?

11:01 24 A. About what happened.

11:01 25 Q. And they said them to you?

11:01 1 A. No.

11:02 2 Q. They said them to who?

11:02 3 A. Their aunt.

11:02 4 Q. Okay. You -- you went through and listed this  
11:02 5 same reason multiple times, this criminal case pending,  
11:02 6 in different reports you do, right?

11:02 7 A. Correct.

11:02 8 Q. Why were you listing it if it wasn't really the  
11:02 9 factor?

11:02 10 A. Because it was the official factor.

11:02 11 Q. Why do you need an official versus a real  
11:02 12 factor?

11:02 13 MR. NGUYEN: Objection; relevance.

11:02 14 THE COURT: I'm uncomfortable with the use  
11:02 15 of the term "real," versus a "real." What -- I mean,  
11:02 16 are we defining real factor? I don't know -- I  
11:02 17 understand what real factor means. I don't know if she  
11:02 18 understands real factor.

11:02 19 Q. (BY MR. SLATE) Ma'am, you just said that the  
11:02 20 official reason you weren't going to reunify with  
11:03 21 Ms. [REDACTED] is because of the criminal case, right?

11:03 22 A. Yes.

11:03 23 Q. Okay. And then what was the unofficial reason  
11:03 24 you weren't going to reunify her? You said it was  
11:03 25 because of the injuries to the child?

11:03 1 A. Yes, from what the kids had said.

11:03 2 Q. Okay. And why wouldn't you just put into the  
11:03 3 paperwork for the Judge to see and for Ms. [REDACTED] to see  
11:03 4 and her attorneys to see what the unofficial reason was?  
11:03 5 Why would you hide that?

11:03 6 A. It's not hiding it. You're asking me what I  
11:03 7 based my personal recommendations and my personal  
11:03 8 opinions on.

11:03 9 Q. Well, I'm asking why you're putting this in the  
11:03 10 paperwork that you're filing with the Court?

11:03 11 A. That would be the official position of the  
11:03 12 Department.

11:03 13 Q. Okay. Who held this unofficial position beside  
11:03 14 yourself?

11:04 15 A. I can't speculate on other people's opinions.

11:04 16 Q. Anybody else within the Agency tell you that  
11:04 17 was their unofficial position?

11:04 18 A. No.

11:04 19 Q. Just yours?

11:04 20 A. I don't know other people's opinions.

11:04 21 Q. Did you ever sit down and seek out the opinion  
11:04 22 of the caseworker who had the case before you?

11:04 23 A. No.

11:04 24 Q. Her name was Mirium Mendez. Do you know her?

11:04 25 A. Yes.

11:04 1 Q. Did you ever talk to her about this case?

11:04 2 A. Yes.

11:04 3 Q. Okay. And she had the case for a very long  
11:04 4 time, right?

11:04 5 A. Right.

11:04 6 Q. Now, one of the things you testified about  
11:04 7 yesterday was you had no knowledge that the kids missed  
11:04 8 their mother, right?

11:04 9 A. I don't think I phrased it like that.

11:04 10 Q. Did you have knowledge the kids missed their  
11:04 11 mother?

11:04 12 A. The kids asked me about their mother once in  
11:04 13 the four months I had the case.

11:04 14 Q. Okay. Well, let's look here what you wrote on  
11:05 15 Page 3 of your report, your monthly summary. Here it  
11:05 16 says --

11:05 17 MR. NGUYEN: Objection; time frame. Which  
11:05 18 summary?

11:05 19 MR. SLATE: Exhibit 10.

11:05 20 THE COURT: Exhibit 10.

11:05 21 Q. (BY MR. SLATE) Here on Page 3, you see right  
11:05 22 here what you wrote?

11:05 23 A. Yes.

11:05 24 Q. Okay. They do miss their mother?

11:05 25 A. As I said, the first month was the first month

11:05 1 that they -- the only month that they asked me about  
11:05 2 their mother.

11:05 3 MS. SOLIS: Objection; nonresponsive.

11:05 4 THE COURT: Sustained.

11:05 5 Q. (BY MR. SLATE) You put on there "they do miss  
11:05 6 their mother," right?

11:05 7 A. Right.

11:05 8 Q. And then you said yesterday that the kids  
11:05 9 receive therapy every month, right?

11:05 10 A. Correct.

11:05 11 Q. Would it surprise you to learn that TDFPS only  
11:05 12 has records showing these kids have had therapy for two  
11:05 13 months and then a third that they're actively looking  
11:06 14 for, three months total since this case began? Would  
11:06 15 that surprise you?

11:06 16 A. No.

11:06 17 Q. It wouldn't surprise you?

11:06 18 A. No.

11:06 19 Q. So, you know this whole time these kids have  
11:06 20 only been in therapy for three months out of 18?

11:06 21 A. They've been in therapy for every month, every  
11:06 22 month they've been in this foster home.

11:06 23 Q. That's not what you testified to yesterday,  
11:06 24 right?

11:06 25 A. They've been in therapy for every month that I

11:06 1 had the case.

11:06 2 Q. Why didn't you -- where are the July records  
11:06 3 then?

11:06 4 A. I don't know.

11:06 5 Q. Where are the August records?

11:06 6 A. I don't know.

11:06 7 Q. Because yesterday what you were talking about  
11:06 8 was the fact that you understand there's a legal  
11:06 9 requirement to change the children's service plans if  
11:06 10 you change their permanency goal, but you never changed  
11:06 11 the service plans, right?

11:06 12 MR. NGUYEN: Objection, Your Honor. I  
11:06 13 don't see how this is relevant as to termination with  
11:06 14 conservatorship issues in this case. Is he putting  
11:07 15 TDFPS on trial today?

11:07 16 MR. SLATE: They have to make reasonable  
11:07 17 efforts to return the children home, Judge, on their own  
11:07 18 pleadings.

11:07 19 THE COURT: It's overruled.

11:07 20 Q. (BY MR. SLATE) Right? You saw -- you talked  
11:07 21 about that, that that was a legal requirement; Texas  
11:07 22 Administrative Code, and also a provision of the CPS  
11:07 23 worker's handbook, change the service plans whenever you  
11:07 24 change the permanency goal, right?

11:07 25 A. Right.

11:07 1 Q. And in your response to that was, Well, we  
11:07 2 didn't change it, but they got therapy every month based  
11:07 3 upon these changes in permanency, right?

11:07 4 A. We changed the review -- we update the child's  
11:07 5 service plans whenever we review them.

11:07 6 Q. Did you realize that the requirement is that it  
11:07 7 must be done within 30 days of the permanency goal  
11:07 8 change? Did you realize that, ma'am?

11:08 9 A. No.

11:08 10 MR. SLATE: Judge, I'm going to ask the  
11:08 11 Court to take judicial notice of TDFPS handbook Section  
11:08 12 62.35 of documenting the permanency plan; and also Texas  
11:08 13 Administrative Code section -- Chapter 40, Section  
11:08 14 700.1206.

11:08 15 THE COURT: Okay. The Court will take  
11:08 16 judicial notice of the TDFPS policies 6 -- sorry --  
11:08 17 62.35, as well as the Administrative Code of Texas  
11:09 18 subsection 700.1206.

11:09 19 Q. (BY MR. SLATE) Now, ma'am, yesterday you  
11:09 20 testified that when you got the case at the end of May  
11:09 21 2017, the goal was relative conservatorship, right?

11:09 22 A. Correct.

11:09 23 Q. And then you turned in what we have as Exhibit  
11:09 24 No. 24 -- Mother's Exhibit No. 24, you did a permanency  
11:09 25 report to this Court dated July 1st when you signed off



11:09 1 on it that shows that the goal had changed to unrelated  
11:09 2 adoption, right?

11:09 3 A. Correct.

11:09 4 Q. And, so, when you look here -- if you would,  
11:09 5 please, read that section where it says "Staff must"  
11:09 6 right there? Would you please read that?

11:09 7 A. "Staff must update child and family service  
11:09 8 plans within 30 days whenever the permanency plan  
11:09 9 changes."

11:09 10 Q. Okay. What day did you update the children's  
11:09 11 family service plans after you made the change on  
11:10 12 July 1st 2017?

11:10 13 A. I'd have to look up the date in IMPACT.

11:10 14 Q. So, do you recall doing it?

11:10 15 A. I can't remember.

11:10 16 Q. So, if we give you some time on one of the  
11:10 17 breaks to go and pull up IMPACT, you'll be able to find  
11:10 18 what day it was that you made that change?

11:10 19 A. It's whenever the child plans had been  
11:10 20 reviewed.

11:10 21 Q. That's not what I'm asking you. If you do it  
11:10 22 within the 30 days that your own policy requires and  
11:10 23 that the State law requires?

11:10 24 A. I don't know. I'd have to look it up.

11:10 25 Q. So, if you're not following state law --

1 hypothetical for a second. Pretend that you did not  
2 follow the State law. Do you think that you're making a  
3 reasonable effort to return these children to their  
4 mother, if you're not following the law?

5 MR. NGUYEN: Objection; calls for legal  
6 conclusion.

7 THE COURT: Sustained.

8 Q. (BY MR. SLATE) Do you realize that you're  
9 supposed to try and return these kids back to their  
10 mother?

11 A. Yes.

12 Q. Do you believe you're doing a good job trying  
13 to return them back to their mother, if you're not  
14 following that rule right there?

15 MR. NGUYEN: Objection; relevance as to  
16 whether or not she thinks she's doing a good job.

17 THE COURT: Sustained.

18 Q. (BY MR. SLATE) Are you testifying here today  
19 you believe the Agency did a good job trying to return  
20 these kids back to their mother?

21 MR. NGUYEN: Objection; relevance.

22 MR. SLATE: She's up here testifying  
23 whether or not she wants termination to meet all the  
24 other grounds, whether or not they provide safe and  
25 stable homes, other things like that. She can testify

1 whether she thinks she and other workers at the Agency  
2 did their job.

3 MR. NGUYEN: Relevance as to --

4 THE COURT: Sustained.

5 Q. (BY MR. SLATE) Tell me what other efforts you  
6 made to return these kids back to [REDACTED]?

7 A. When I had the case, our goal wasn't to return  
8 with Ms. [REDACTED]. We were interested in looking into any  
9 other family members that could be appropriate.

10 Q. So, you never made any attempts, is what your  
11 testimony, is to try and return the children back to  
12 Ms. [REDACTED]?

13 A. No.

14 Q. Did you ever tell Ms. [REDACTED] that you were  
15 never going to try and return them back to her?

16 A. I asked for relatives multiple times.

17 MS. SOLIS: Objection; nonresponsive.

18 THE COURT: Sustained.

19 Q. (BY MR. SLATE) Did you ever tell Ms. [REDACTED]  
20 you were never going to return the children back to her?

21 A. No.

22 Q. Why?

23 MR. NGUYEN: Objection; relevance as to  
24 why.

25 THE COURT: It's sustained.

11:13 1 Q. (BY MR. SLATE) Now, did the kids ever tell you  
11:13 2 that they wanted to go back and live with their mom?

11:13 3 A. No.

11:13 4 Q. When we look here on Page 3 of your report, why  
11:13 5 do you write this in there? "The children" -- I'm  
11:13 6 sorry. Why do you say this right here under the  
11:14 7 "Discuss the opportunity for the child to exercise his  
11:14 8 or her feelings about placement" -- you write there,  
11:14 9 "The children have expressed their desire to return home  
11:14 10 with their parents."

11:14 11 A. It's something that they had previously said.

11:14 12 Q. What, ma'am?

11:14 13 A. Something they said to their previous  
11:14 14 caseworker.

11:14 15 Q. And you just repeated it?

11:14 16 A. Correct.

11:15 17 Q. Did you prepare another permanency report in  
11:15 18 October of 2017?

11:15 19 A. Yes.

11:15 20 Q. I'm going to show you what's -- I'm going to  
11:15 21 show you what's been previously marked as Exhibit 25.  
11:16 22 Do you recognize this document, ma'am?

11:16 23 A. Yes.

11:16 24 Q. And is this the permanency report you prepared  
11:16 25 for the Court on -- let's see the date of report -- on

11:16 1 October 4, 2017?

11:16 2 A. Yes.

11:16 3 Q. You still had the case at that time?

11:16 4 A. My last day in Houston was October.

11:16 5 Q. Is that a "yes"?

11:16 6 A. Yes.

11:16 7 Q. Now, the entire time you had the case, was  
11:16 8 Natasha Roy your supervisor?

11:16 9 A. Yes.

11:16 10 Q. You were never supervised by Jane Dominguez?

11:17 11 A. Not through this case.

11:17 12 Q. Now, at this time what was the goal for the  
11:17 13 Agency in October 2017?

11:17 14 A. Unrelated adoption.

11:17 15 Q. And at that point in time, had you-all had any  
11:17 16 kind of conference with the parents to go over that  
11:17 17 goal?

11:17 18 A. No.

11:17 19 Q. Had you made any efforts to try and have any  
11:17 20 visits for Ms. [REDACTED]?

11:17 21 A. Parent-child visits?

11:17 22 Q. Right.

11:17 23 A. No.

11:17 24 Q. Okay. Here on Page 9 --

11:17 25 MR. SLATE: Actually, Judge, may I go ahead

11:17 1 and offer into evidence Exhibit 25?

11:17 2 (Respondent Mother's Exhibit No. 25  
11:17 3 offered.)

11:17 4 THE COURT: Any objection to --

11:17 5 MS. SOLIS: No objection.

11:17 6 MR. BOBBITT: No objection.

11:17 7 MR. NGUYEN: No objection.

11:17 8 THE COURT: Okay. With no objection to  
11:17 9 Respondent Mother's Exhibit 25, 25 is admitted into  
11:17 10 evidence.

11:17 11 (Respondent Mother's Exhibit No. 25  
11:17 12 admitted.)

11:17 13 MS. SIMMS: Judge, may I approach with a  
11:18 14 copy for you?

11:18 15 THE COURT: You may. Thank you.

11:18 16 Q. (BY MR. SLATE) If we look here on Page 9 of  
11:18 17 your report to the Court, do you see an entry down there  
11:18 18 for October 3rd 2017 under family visits?

11:18 19 A. Yes.

11:18 20 Q. Okay. Can read that out loud?

11:18 21 A. "No family visits scheduled due to court  
11:18 22 order."

11:18 23 Q. And what court order were you referring to?

11:18 24 A. It was the court bond stipulation. I didn't  
11:18 25 realize that there was a difference.

11:18 1 Q. Why didn't -- yesterday where it said  
11:18 2 "Investigation staff presented an affidavit," you said  
11:18 3 that was the bond condition, right?

11:18 4 A. I guess so.

11:18 5 Q. Okay. But today you're saying this other  
11:18 6 language you use here, "Due to court order," is also the  
11:18 7 bond condition?

11:18 8 A. I -- yes.

11:18 9 Q. Did you make any reasonable inquiries into  
11:18 10 seeing the court order, seeing the affidavit, seeing the  
11:18 11 bond condition?

11:18 12 A. Yes. I requested the Court order referring  
11:19 13 about visitation from our paralegal; and they sent back  
11:19 14 an E-mail saying that there's no court order, there's  
11:19 15 just bond stipulations and a copy of the bond  
11:19 16 stipulation.

11:19 17 Q. Well, then why do you use this language "Court  
11:19 18 order"?

11:19 19 A. Because I didn't understand that there was a  
11:19 20 difference.

11:19 21 Q. Even though the paralegal had said to you there  
11:19 22 is no court order?

11:19 23 MR. BOBBITT: Objection; asked and  
11:19 24 answered.

11:19 25 THE COURT: Sustained.

11:19 1 Q. (BY MR. SLATE) Ms. [REDACTED] asked you several  
11:19 2 times about setting visits up, right?

11:19 3 A. Yes.

11:19 4 Q. And every time you told her there was a court  
11:19 5 order that prevents her from seeing the kids, right?

11:19 6 A. Yes.

11:19 7 Q. So, every time she was asking you to set these  
11:19 8 visits up, do you agree with me now that your denial of  
11:19 9 her doing that was improper?

11:19 10 A. No, because there was still a bond stipulation.

11:19 11 Q. Did you realize that this Court had ordered  
11:20 12 Ms. [REDACTED] to have supervised visits with CPS?

11:20 13 A. No.

11:20 14 Q. Well, doesn't it say up here under that same  
11:20 15 family visit language that Ms. [REDACTED] will visit her  
11:20 16 children at the DPS office twice per month?

11:20 17 Did you not realize that was part of the  
11:20 18 Court's service plan order?

11:20 19 A. I did, yes.

11:20 20 Q. You did realize it?

11:20 21 A. Yes.

11:20 22 Q. So, why did you just testify a second ago you  
11:20 23 had no idea?

11:20 24 A. I thought you meant, like, a separate order for  
11:20 25 visitation, not within the family plan.



11:21 1 Q. Were you ever given anything to show that the  
11:21 2 Court had changed that order?

11:21 3 A. No.

11:21 4 Q. Did you inquire of your supervisors when  
11:21 5 Ms. [REDACTED] made the request for visitation and relay  
11:21 6 what her request was?

11:21 7 A. Yes.

11:21 8 Q. Which supervisor did you do that to?

11:21 9 A. With Ms. Roy.

11:21 10 Q. Did Ms. Roy tell you to deny the visitations?

11:21 11 A. Well, we were discussing the possibility of  
11:21 12 visiting with family members, but I don't believe she  
11:21 13 thought it was appropriate if we didn't have -- if there  
11:21 14 wasn't, like, an approved home study or if it wasn't  
11:21 15 something that was going to lead to something further,  
11:21 16 she didn't feel like it was productive.

11:21 17 Q. Ma'am, my question to you was about Ms. [REDACTED]  
11:21 18 making a request to you to visit. Did you discuss those  
11:21 19 requests with Ms. Roy?

11:22 20 A. Ms. [REDACTED] requested visits for her family  
11:22 21 members.

11:22 22 Q. Ma'am, I understand that. You already  
11:22 23 testified she also requested visits for herself.

11:22 24 MR. NGUYEN: Objection; legal -- counsel  
11:22 25 testifying.

11:22 1 MR. SLATE: I'm crossing her, Judge. She's  
11:22 2 now --

11:22 3 THE COURT: Overruled.

11:22 4 MR. SLATE: What's that?

11:22 5 THE COURT: It's overruled.

11:22 6 Q. (BY MR. SLATE) Ma'am, we just talked about how  
11:22 7 Ms. [REDACTED] made the request to you to see the kids and  
11:22 8 you said no because there was a court order?

11:22 9 A. Right. I must have misunderstood your question  
11:22 10 earlier. You asked if Ms. [REDACTED] asked for visits; and  
11:22 11 I said yes.

11:22 12 Q. Well, what court order prevented her relatives  
11:22 13 from seeing the kids?

11:22 14 A. Generally, relatives aren't parties in a legal  
11:22 15 case. They're not guaranteed visitation.

11:22 16 Q. So, to answer my question: What court order  
11:22 17 prevented her relatives from seeing the kids?

11:22 18 MR. NGUYEN: Objection; asked and answered.

11:22 19 THE COURT: Overruled. You can answer.

11:22 20 A. None.

11:22 21 Q. (BY MR. SLATE) Her relatives had had visits  
11:22 22 with the kids for over a year, right?

11:22 23 A. It was before I was the caseworker.

11:23 24 MR. SLATE: Objection, Your Honor;

11:23 25 nonresponsive.

11:23 1 THE COURT: Sustained.

11:23 2 Q. (BY MR. SLATE) Ma'am, her relatives had visits  
11:23 3 with the kids for over a year, right?

11:23 4 A. To my knowledge, I knew they had a few. I  
11:23 5 don't know how many they had or how long.

11:23 6 Q. Never checked into it?

11:23 7 A. I just knew that they had a few visits.

11:23 8 Q. Okay. You understand that on the very first  
11:23 9 day of this trial, legal counsel for TDFPS stipulated  
11:23 10 there was nothing legal or otherwise that prevented  
11:23 11 visitations between Ms. [REDACTED] and this child?

11:23 12 MR. BOBBITT: Judge, that's a  
11:23 13 mischaracterization of the stipulations. I object to  
11:23 14 the question. The stipulation was that --

11:23 15 THE COURT: Sustained.

11:23 16 MR. BOBBITT: -- there was no -- we  
11:23 17 stipulated that there was no court order with respect to  
11:23 18 contact between the mother.

11:24 19 MR. SLATE: No, Judge, actually we have  
11:24 20 Ms. Johnson here to testify about there never being  
11:24 21 anything legal at all that would've -- not even that  
11:24 22 bond condition.

11:24 23 THE COURT: It doesn't matter, Mr. Slate,  
11:24 24 if that's the reality. You're asking her if that  
11:24 25 stipulation was made; and I recall the stipulation being

11:57 1 A. Yes.

11:57 2 Q. You said earlier that the -- your testimony  
11:57 3 yesterday was that the nature of the injury was what was  
11:57 4 preventing CPS from reunifying with Ms. [REDACTED], right?

11:57 5 A. Correct.

11:57 6 Q. And then when we talked about how even when CPS  
11:57 7 knew about the nature of the injury, the goal is  
11:57 8 reunification, you then turned and said, Well, it was  
11:57 9 really more about the criminal case and the uncertainty  
11:57 10 around the criminal case, right?

11:57 11 A. I guess at the time the goal was family  
11:57 12 reunification. That would have been when I first  
11:57 13 started working at CPS.

11:58 14 Q. So, what I'm saying is you said the nature of  
11:58 15 the injury initially was what you said was the reason  
11:58 16 why CPS wouldn't return the children to Ms. [REDACTED],  
11:58 17 right?

11:58 18 A. Yes.

11:58 19 MR. NGUYEN: Objection; lack of personal  
11:58 20 knowledge, Your Honor.

11:58 21 MR. SLATE: She already testified to it,  
11:58 22 Judge. I'm just trying to line it up.

11:58 23 MR. NGUYEN: I believe it was prior to her  
11:58 24 time in this case.

11:58 25 THE COURT: Let's just get to what the

1 question is, Mr. Slate.

2 Q. (BY MR. SLATE) Ma'am, you testified the reason  
3 for no reunification yesterday was the nature of the  
4 injury, right, that's what you testified when Mr. Nguyen  
5 asked the question?

6 THE COURT: She said one of the reasons.

7 Q. (BY MR. SLATE) You after that, when pointed  
8 out that CPS had -- even knowing the nature of injury,  
9 was going to reunify with Ms. [REDACTED], you said that it  
10 was the pending criminal case and the status of it,  
11 right?

12 A. That was a contributing factor.

13 Q. What else contributed to it?

14 A. To what?

15 Q. To the not wanting to reunify.

16 A. Not having confidence that the children would  
17 not get hurt again had we reunified.

18 Q. How do you ever know that?

19 A. Through developing a support system that we  
20 feel competent can be used by caregivers and children.

21 Q. What is that support system composed of?

22 A. Therapists, family, schools, communities.

23 Q. Okay. So, in this case you gave Ms. [REDACTED] a  
24 family service plan, right?

25 A. Correct.

12:00 1 Q. And she completed everything that was on the  
12:00 2 plan, right?

12:00 3 A. Correct.

12:00 4 Q. Her therapist even said -- and the  
12:00 5 recommendation the therapist gave you-all, the kid  
12:00 6 should be returned to her, right?

12:00 7 A. Yes.

12:00 8 Q. And are you saying she doesn't have family?

12:00 9 A. No.

12:00 10 Q. Okay. So, what part of her support system  
12:00 11 would she not have that you think would say that these  
12:00 12 kids couldn't go back to her?

12:00 13 A. I would say the support system in this case  
12:00 14 would need to be someone that was willing to take the  
12:00 15 kids as a placement as well, not just be a relative who  
12:00 16 visits on occasion.

12:00 17 Q. Well, why was she even doing a service plan if  
12:01 18 you're never going to return the kids to her?

12:01 19 A. I don't -- I can't say that we were never going  
12:01 20 to return the kids to her. That was just the goal when  
12:01 21 I came on the case.

12:01 22 Q. So, what would she -- what would she have  
12:01 23 needed to do in her service plan to increase that  
12:01 24 support system so she can get her kids back to her?

12:01 25 A. I don't know.

12:01 1 Q. There's nothing you can think of?

12:01 2 A. I would say that's something that would have  
12:01 3 to be discussed with my supervisor to think of resources  
12:01 4 and get creative with everything that has happened.

12:01 5 Q. You said a minute ago that one of the things  
12:01 6 Ms. [REDACTED] needed to do to be reunified was to  
12:01 7 acknowledge responsibility for the injuries, right?

12:02 8 A. Yes.

12:02 9 Q. What does that mean?

12:02 10 A. Show remorse, take accountability, so that -- I  
12:02 11 think remorse is a huge part of it.

12:02 12 Q. How do you show remorse? Do you participate in  
12:02 13 18 months worth of CPS services and monitoring? Is that  
12:02 14 one way?

12:02 15 A. I don't think that would show enough remorse,  
12:02 16 if you hurt a child.

12:02 17 Q. What more remorse do you have?

12:02 18 A. Even when a child is in care, you can still try  
12:02 19 to give them gifts and support and write them letters.  
12:02 20 I don't believe there's anything stipulating that she  
12:02 21 couldn't write letters to her children.

12:02 22 Q. I thought you wrote in your report there was a  
12:02 23 no contact order?

12:02 24 A. It wasn't a court order -- or the no contact  
12:03 25 was no visitation.

12:03 1 Q. So, a card or a letter or a gift would show  
12:03 2 remorse?

12:03 3 A. It would contribute to it, I guess.

12:03 4 Q. What else would show remorse?

12:03 5 A. I think -- I think it would be personal  
12:03 6 discussions and --

12:04 7 Q. With who?

12:04 8 A. [REDACTED]'s caseworker.

12:04 9 Q. So, Ms. Marron needs to have a personal  
12:04 10 discussion with a caseworker about her being sad?

12:04 11 A. Not being sad, but some kind -- some statements  
12:04 12 that could give the Agency confidence that she developed  
12:04 13 the skills to be a protective parent and understand  
12:04 14 inappropriate discipline.

12:04 15 Q. Isn't that what you-all contract all these  
12:04 16 people out for to provide these services, so that at the  
12:04 17 end of the services those people can certify that they  
12:04 18 can be a protective parent and that they've learned the  
12:05 19 things that you-all intended them to learn?

12:05 20 A. Well, we also want to hear it from the parent.

12:05 21 Q. Where else have you ever had a case where the  
12:05 22 parent had to sit down across from you and tell you,  
12:05 23 I've learned all this stuff, in order for you recommend  
12:05 24 they get their kid back?

12:05 25 MR. BOBBITT: Objection to relevance,



1 Judge.

2 MR. SLATE: She's saying that that's a  
3 requirement.

4 THE COURT: Sustained as to other cases.  
5 You've asked her what she would have expected in this  
6 case, Mr. Slate.

7 Q. (BY MR. SLATE) Is this the only case you've  
8 ever done that you required a parent to sit down across  
9 from you and make some admission of remorse?

10 A. No.

11 Q. Is that something you do in all your cases?

12 A. No.

13 Q. Is it something that's in the handbook that you  
14 learned from CPS that that needs to be done?

15 A. As far as remorse, no; but --

16 MR. SLATE: Objection, Your Honor;  
17 nonresponsive after "no."

18 THE COURT: Sustained.

19 MR. SLATE: I pass the witness, Judge.

20 THE COURT: Ms. Solis.

21 MS. SOLIS: Yes, briefly.

22 RECROSS-EXAMINATION

23 BY MS. SOLIS:

24 Q. Ms. Johnson, to follow up on Mr. Slate's  
25 question, did you ever tell the mom that that was one of



# App. G



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REPORTER'S RECORD  
VOLUME 5 OF 20 VOLUME(S)

FILED IN

TRIAL COURT CAUSE NO. [REDACTED]  
APPELLATE CAUSE NO. [REDACTED]

CHRISTOPHER A. PRINE  
Clerk

|                    |   |                          |
|--------------------|---|--------------------------|
| IN THE INTEREST OF | ) | IN THE DISTRICT COURT OF |
|                    | ) |                          |
|                    | ) |                          |
|                    | ) |                          |
| [REDACTED]         | ) | HARRIS COUNTY, TEXAS     |
|                    | ) |                          |
|                    | ) |                          |
| CHILDREN           | ) | 315TH JUDICIAL DISTRICT  |
|                    | ) |                          |

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**SANCTIONS HEARING**  
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On the 5th day of November, 2018, the following  
proceedings came on to be heard in the above-entitled  
and numbered cause before the Honorable Michael  
Schneider, Judge presiding, held in Houston, Harris  
County, Texas:  
  
Proceedings reported by machine shorthand.

## A P P E A R A N C E S

Mr. Steven Dieu  
HARRIS COUNTY ATTORNEY'S OFFICE  
SBOT NO. 00787366  
1019 Congress Street, Floor 15  
Houston, Texas 77002  
Phone: 713-755-5101  
**ATTORNEY FOR THE PETITIONER, TDFPS**

Mr. Dennis Slate  
SLATE & ASSOCIATES  
SBOT NO. 24029836  
112 East Forrest Lane  
Deer Park, Texas 77536  
Phone: 281-476-9447  
**ATTORNEY FOR RESPONDENT MOTHER,** [REDACTED]

Ms. Stephanie Proffitt  
PROFFITT & ASSOCIATES  
SBOT NO. 24006775  
917 Franklin Street, Suite 100  
Houston, Texas 77002  
Phone: 713-224-3400  
**ATTORNEY FOR RESPONDENT FATHER,** [REDACTED]

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1 MR. SLATE: May we begin?

2 THE COURT: Yes.

3 NIESHA EDWARDS,

4 having been first duly sworn, testified as follows:

5 DIRECT EXAMINATION (Continued)

6 BY MR. SLATE:

7 Q. Ms. Edwards, since last Monday, have you had an  
8 opportunity at all to review any of the records in this  
9 case?

10 A. Have I had a moment to review them?

11 Q. Yeah. Can you speak up just a little bit?

12 A. I haven't reviewed the case, no.

13 Q. Is that a yes? I didn't hear you, ma'am.

14 A. I haven't reviewed the case.

15 Q. You didn't look at anything?

16 A. No.

17 Q. To help your memory?

18 A. No.

19 Q. In this case, one of the things that CPS said  
20 was a reason that they didn't authorize the parental  
21 child safety placement had to do with the child being  
22 medically fragile, right? Did you hear the question?

23 A. What's the question?

24 Q. So one -- when CPS didn't change placement on  
25 the PCSP, the reason that CPS gave was that the child



1 was too medically fragile to move, right?

2 A. Incorrect.

3 Q. What was the reason?

4 A. The child continuously going in and out of the  
5 hospital.

6 Q. Okay. So how would that have affected there  
7 being a change of placement with -- from the [REDACTED] to  
8 [REDACTED]'s house?

9 A. It would affect it because we needed to gather  
10 information regarding updates and medical, if anything  
11 has changed as far as the needs of the child. So just  
12 switching the child from a different placement after  
13 being released from the hospital, we needed time to make  
14 sure that the child's needs were being met.

15 Q. Okay. So you're saying that you had agreed on  
16 August 14th for the change of placement from the  
17 [REDACTED]' house to [REDACTED]'s house, right?

18 A. Correct.

19 Q. And then you're saying that at some point, you  
20 decided that the placement shouldn't happen because the  
21 child had gone into the hospital?

22 A. Can you rephrase your question? I don't  
23 understand your question.

24 Q. Well, who made the decision that the placement  
25 shouldn't change?

1           A.    The placement was dependent upon PD approval.

2           Q.    So who made the decision the placement  
3 shouldn't change?

4           A.    The decision wasn't made to place.

5           Q.    What do you mean by that?

6           A.    We hadn't made a decision to place.

7           Q.    So when you are at the -- when you and Lavar  
8 were both at the family team meeting, you both had  
9 approved of the placement change, right?

10          A.    Correct.

11          Q.    So then all we're waiting for is the PD to  
12 approve; is that right?

13          A.    Correct.

14          Q.    Okay. And are you saying that at some point in  
15 time, the PD decided that she wasn't going to approve it  
16 without more information about the medical condition?

17          A.    Correct.

18          Q.    When did she make that decision?

19          A.    After the child went back into the hospital  
20 after the FTM. That changed the consideration of moving  
21 of the placement. The decision was made before the  
22 child went back into the hospital.

23          Q.    Well, when did the -- when did the PD tell you  
24 that that was the case?

25          A.    What was the case?

1 Q. That she wasn't going to approve it without  
2 more information?

3 A. Can you rephrase your question? I don't  
4 understand what you're asking.

5 Q. Did the PD ever tell you that she wasn't going  
6 to approve the placement change that you had approved?

7 A. No.

8 Q. So how did you know that the PD wasn't going to  
9 approve it?

10 A. Oh, we discussed the child going back to the  
11 hospital.

12 Q. How did you know that the PD wasn't going to  
13 approve the placement change?

14 A. Because it was contingent upon what the medical  
15 records would give us.

16 Q. Okay. When did the PD, your PD, tell you  
17 that -- what she -- the reason she wasn't approving this  
18 placement change had something to do with medical  
19 records?

20 A. I don't recall the exact date.

21 Q. Give me a general date.

22 A. We discussed it on the 14th after the child  
23 went back into the hospital. The child didn't release  
24 from the hospital until the following week, I believe on  
25 the 22nd. We discussed it then that it wouldn't be

1 approved before talking to a doctor.

2 Q. Okay. And did you communicate all of this to  
3 Mr. Jones?

4 A. Yes.

5 Q. And so Mr. Jones would've known in August that  
6 the reason the PCSP wasn't being approved was because  
7 your PD wanted more medical records?

8 A. Correct.

9 Q. Now, when -- I want to show you what's entered  
10 into evidence as Exhibit 55, page 425. If you would,  
11 you see that on the screen?

12 A. Yes.

13 Q. Okay. Now this is a text between you and Lavar  
14 Jones, right?

15 A. Correct.

16 Q. And it's dated September 18th at 6:12 p.m.,  
17 right?

18 A. Correct.

19 Q. Okay. Now, what's he asking you there?

20 A. "What was our reason for not changing the  
21 placement? I'm working on the affidavit."

22 Q. So you had to tell him what the reason for not  
23 changing the placement was, right?

24 A. Incorrect.

25 Q. How is that incorrect?

1           A.    It is incorrect because we had already  
2 discussed reasons behind why the placement wasn't  
3 approved.

4           Q.    So you're saying he asked you a question that  
5 he already knew the answer to?

6           A.    No.   I'm saying he wanted to go into further  
7 details in how to prepare the affidavit.

8           Q.    Okay.   So he asked you, "What was our reason  
9 for not changing placement?  I'm working on the  
10 affidavit," and you tell him this.  Where did you get  
11 this information:  "Due to the child's continuous visits  
12 to the hospital and the extensive injuries and there  
13 being no explanation for the injuries, moving the child  
14 back and forth places the child at risk and exposure to  
15 further harm."  Where did you get that from?

16          A.    The information regarding the continuous  
17 visits?  I got the information from the family that the  
18 child had been readmitted a number of times from the  
19 hospital.  Regarding the no explanation, that comes from  
20 the physician's statement that there was no explanation  
21 given for the skull fractures.  And moving the child  
22 back and forth was just a concern of the agency.

23          Q.    Whose concern at the agency?

24          A.    A shared concern.

25          Q.    Who?

1           A.    Myself, the program director.  There was  
2 concern.

3           Q.    Now, you know the program director testified in  
4 this sanctions hearing already, right?

5           A.    I do.

6           Q.    Would it surprise you if I told you she never  
7 once voiced that concern here in this court?

8           A.    I wasn't in here.

9           Q.    I'm asking if it would surprise you?

10          A.    Surprise me of what?

11          Q.    That she didn't say anything like that, that  
12 that was her concern.

13          A.    If you're saying that.

14          Q.    Because -- so you're saying your solution --  
15 your solution to not moving the child back and forth  
16 is -- because it places the child at risk and further  
17 harm -- was to move the child and put the child in  
18 foster care?  That was your solution?

19          A.    Well, I don't understand your question.

20          Q.    You just said if we move this child back and  
21 forth, it's going to put the child at risk for further  
22 harm, right?

23          A.    Uh-huh.

24          Q.    So what you did was get the child -- these  
25 children out of bed and move them to a foster home --

1 two different foster homes, right?

2 A. Incorrect.

3 Q. What's incorrect about that?

4 A. We moved them out of the care of the alleged  
5 perpetrators.

6 Q. So what was incorrect about my statement?

7 A. You said my reason for moving them was because  
8 I wanted to just move them and take them out of bed and  
9 place them in foster care. No, that wasn't the reason  
10 for moving them. The reason for moving them was because  
11 they were no longer in the care of the paternal  
12 grandparents, who we felt were safe, and now back in the  
13 care of the alleged perpetrators, who are alleged to be  
14 the people that have hurt the child.

15 Q. Okay. So you said we can't move them from  
16 paternal grandparents to paternal aunt and uncle because  
17 it would cause further harm to the children, right?

18 A. Incorrect.

19 Q. What's incorrect about that?

20 A. I said that was contingent upon PD approval. I  
21 couldn't say the kids could be moved until the program  
22 director gave approval, is what I said.

23 Q. Well, ma'am, the question here that's being  
24 posed to you as the removal affidavit is being drawn up  
25 is why didn't we move the kids when they asked us to?

1 And your answer is moving the child back and forth  
2 places the child at risk and exposure to further harm,  
3 correct or not correct?

4 A. Incorrect.

5 Q. What's incorrect?

6 A. Because this is a snippet of our conversations.  
7 Me and Mr. Jones have verbal conversations. So, again,  
8 this was based upon him writing his affidavit.

9 Q. So this is just a snippet of your conversation,  
10 this part right here?

11 A. Correct. It's a text.

12 Q. It was a what?

13 A. It was a text.

14 Q. But y'all had a bigger conversation surrounding  
15 this question of why we didn't do the PCSP movement?

16 A. No. We had a bigger conversation regarding the  
17 placement. You asked about why the placement wasn't  
18 changed.

19 Q. So when we look here in these CPS records, if  
20 we look on page 114 down here at the bottom, you see  
21 that entry for August 20th, 2018?

22 A. Yes.

23 Q. Okay. And on that entry there, do you see that  
24 it says 8/20/2018: "TCF [REDACTED] What's "TCF"  
25 stand for?



1           A.    "Telephone call from."

2           Q.    And it says there -- if you would please read  
3 what it says about the telephone call from [REDACTED]  
4 [REDACTED] starting with "she asked"?

5           A.    "She asked if the agency was able to approve  
6 the [REDACTED] for the parental child -- the new parental  
7 child safety placement. I informed Ms. [REDACTED] we do not  
8 have an approval at this time. I informed her that I  
9 would let her know once I am able to get a parental  
10 child safety plan approved."

11          Q.    Okay. Now, your premise a minute ago was that  
12 text we looked at was just a snippet of your  
13 conversation, right?

14          A.    Correct.

15          Q.    When we look here at the removal affidavit, for  
16 the entry on August 20th, I want you to look at that  
17 part. "On August 20th, 2018, investigative worker  
18 received a telephone call from [REDACTED] She  
19 asked if the agency was able to approve the [REDACTED] for  
20 the new parental child safety place." Now, when I go  
21 and look back on Exhibit No. 55, just to kind of show  
22 that up here, do you see how the language in this thing  
23 is exactly the same as the language that was in that  
24 affidavit to the point where it even says "parental  
25 child safety place, period." You see that?

1           A.    Correct.

2           Q.    Now, when I go back and look at the removal  
3 affidavit, that language is exactly the same up to  
4 "place, period," right?  You see right here?

5           A.    Yes.

6           Q.    Okay.  Now, if we skip ahead a sentence and we  
7 start looking over here at "I informed," that "I  
8 informed her that I would let her know once I am able to  
9 get the parental child safety plan approved."  I want  
10 you to look back at Exhibit No. 55, and you'll see that  
11 that language is exactly the same there, too.  "I  
12 informed her that I would let her know once I am able to  
13 get the parental child safety plan approved."  You see  
14 that?

15          A.    Yes.

16          Q.    You agree that's all the same language, right?

17          A.    Correct.

18          Q.    Okay.  But what's different between the entry  
19 there in the IMPACT system and what got put in front of  
20 the Court is this sentence here:  "I informed we don't  
21 have approval at this time due to there being concerns  
22 with moving the child who has suffered multiple serious  
23 injuries," right?

24          A.    Correct.

25          Q.    Now, we know that this affidavit's being drawn

1 up at the same time that that text message that we just  
2 looked at was being sent to you, right?

3 A. Correct.

4 Q. And, yet, your claim was that this was just a  
5 part of a bigger conversation, right?

6 A. Correct.

7 Q. And, yet, it's exactly the same as what you're  
8 telling him in this text message, right?

9 A. Correct.

10 Q. So the bigger conversation y'all had didn't  
11 make it into the affidavit; just this part that you said  
12 here in the text message made it into the removal  
13 affidavit, right?

14 A. Incorrect.

15 Q. Well, it had the IMPACT information word for  
16 word verbatim, which says nothing about having a  
17 discussion that we're not going to move the kids because  
18 of medical harm or risk, and, yet, it just kind of fills  
19 in there with your IMPACT -- or with your text message  
20 into the affidavit, right?

21 A. What's the question?

22 Q. It just fills in this information from you into  
23 a supposed preexisting conversation that happened on  
24 August 20th. You agree with me?

25 A. Incorrect.

1 Q. Okay. What is incorrect about that statement?

2 A. Because I can't answer that question.

3 Q. Why?

4 A. Because I can't say that -- I didn't write the  
5 affidavit, so I can't say that it's just filled in with  
6 anything because it's not verbatim. It's not a copy and  
7 paste from the text to the affidavit, no.

8 Q. We know that the IMPACT entry doesn't say  
9 anything about what your text message said, right?

10 A. Can you ask your question? I don't understand  
11 your question.

12 Q. We know that the IMPACT information says  
13 nothing about there being a problem with moving the  
14 children around to different homes, right?

15 A. Correct.

16 Q. So we know that Mr. Jones copied and pasted  
17 that particular sentence into his affidavit because it's  
18 exactly the same, right?

19 A. Correct.

20 Q. And then he filled in in the middle of that  
21 what he got from you in the text message, right?

22 A. Again, I can't answer that question.

23 Q. Well, did you have knowledge that this stuff  
24 had been discussed with Ms. [REDACTED] on August 20th?

25 A. What stuff?

1 Q. Looking over here at your text conversation  
2 with -- Exhibit No. 60. You, on September 18th at 4:36,  
3 Mr. Jones is asking you: "Is the affidavit for just  
4 [REDACTED] and or [REDACTED] also?" And what did you say?

5 A. "We can add [REDACTED] because she's in the  
6 home."

7 Q. Now, that right there is you saying we're not  
8 adding [REDACTED] because she's in danger; just because  
9 she lives in the home, right?

10 A. Incorrect.

11 Q. Not that we have any proof that [REDACTED] has  
12 been injured, just that she lives in the home?

13 A. Incorrect.

14 Q. What's incorrect in that statement?

15 A. [REDACTED] is being added because it's best  
16 practice. If we have concern for one child, we have  
17 concerns for both children.

18 Q. So you can take children on best practice?

19 A. Take children? I don't understand.

20 Q. You can take children away from their parents  
21 on what you're referring to as best practice, right?

22 A. Incorrect.

23 Q. Well, what did you mean when you said "best  
24 practice"?

25 A. We don't take children just because best

1 practice. We ensure child safety by showing where the  
2 children are is safe. We have to ensure that it's safe.  
3 That's best practice.

4 Q. What was unsafe about [REDACTED] in the home?  
5 What evidence do you have that [REDACTED] had been  
6 unsafe?

7 A. We didn't have any evidence that [REDACTED] had  
8 been unsafe, but we had two parents that we were still  
9 investigating.

10 Q. So that was enough for you to remove [REDACTED]  
11 because you were still investigating?

12 A. Correct.

13 Q. And what were you investigating in regards to  
14 [REDACTED]

15 MR. DIEU: Objection, Judge. Asked and  
16 answered.

17 THE COURT: That's overruled.

18 Please answer.

19 A. Can you repeat the question?

20 Q. (BY MR. SLATE) What were you investigating in  
21 regards to [REDACTED]

22 A. We were investigating [REDACTED]'s parents.

23 Q. So --

24 A. Charlotte's a vulnerable age child. She can't  
25 speak to us. She can't communicate what's going on in

1 her home. The risk was there, so that's what we're  
2 investigating regarding [REDACTED]

3 Q. Wait. You're saying [REDACTED] doesn't talk?

4 A. She's a vulnerable age child where she can't  
5 effectively communicate to us.

6 Q. Did you ever try and talk to [REDACTED]

7 A. Well, I'm not the investigator.

8 Q. So what were you just basing that on that she  
9 can't effectively communicate?

10 A. She's a 2-year-old.

11 Q. Ma'am, you're in charge of investigations,  
12 right?

13 A. Correct.

14 Q. Okay. You would think that you would  
15 investigate to see whether or not the child can  
16 communicate before you just said it on the stand under  
17 oath, right?

18 A. Correct.

19 Q. Okay. So did you ever investigate whether  
20 [REDACTED] can communicate?

21 A. I did have information that she didn't  
22 effectively communicate with the worker.

23 Q. Where is that documented?

24 A. I don't recall.

25 Q. Did you just make that up?

1           A.    No.

2           Q.    Okay.  So you would expect that's documented  
3 somewhere in these IMPACT entries?

4           A.    I don't recall.

5           Q.    Are y'all not documenting your contacts?

6           A.    Well, I don't document contacts if I didn't  
7 make the contact.

8           Q.    Now, you went through and read the affidavit  
9 before Mr. Jones filed it, right?

10          A.    Correct.

11          Q.    And we look here on Exhibit 60, page No. 7.  
12 That's at the top here.  Mr. Jones is saying:  "I just  
13 sent the affidavit to you.  I will send the LIPS in just  
14 a few."  That's what that says, right?

15          A.    Correct.

16          Q.    What's a "LIPS"?

17          A.    A LIPS is a form that offers all information  
18 regarding household members.  Just identifying  
19 information regarding the household.

20          Q.    And then down here, you said:  "Good job on the  
21 affidavit.  Please report to legal first thing."

22          A.    Correct.

23          Q.    Okay.  So that means you read the affidavit and  
24 agreed with it, right?

25          A.    That meant that he turned in his affidavit --



1                   THE REPORTER: I'm sorry, can you repeat  
2 that? I can't hear you.

3           A. That meant that he provided his information to  
4 me with a lot of information.

5           Q. (BY MR. SLATE) so that means that you went  
6 through and read it and agreed with it, right?

7           A. Correct.

8           Q. I mean, you wouldn't have let him send an  
9 affidavit in if you thought it had false information in  
10 it, right?

11          A. Correct.

12          Q. So when you looked at the affidavit, on this  
13 August 20th part -- and you know that Mr. Jones has just  
14 had to ask you why CPS failed to approve the parental  
15 child safety placement, and you see that Mr. Jones  
16 sticks what you told him in the middle of a conversation  
17 that he says he had on August 20th, did that raise any  
18 concerns with you?

19          A. It did not.

20          Q. Why?

21          A. Because, again, we staff cases so I have no  
22 reason to believe that this is not Mr. Jones' writing in  
23 his affidavit.

24          Q. You have no reason to believe what?

25          A. This is not Mr. Jones' writing in his

1 affidavit, his thoughts in his affidavit.

2 Q. Well, ma'am, it would've been really easy for  
3 you to just pull up the IMPACT system and see if that  
4 same conversation was had on August 20th that you just  
5 had with him via text message, right?

6 A. Incorrect.

7 Q. You couldn't have just looked at IMPACT?

8 A. What am I looking in IMPACT for?

9 Q. Because you know that you just told Mr. Jones  
10 the reasons that CPS did not move the child in the PCSP,  
11 right?

12 A. What's the question?

13 Q. You know that you had just finished telling  
14 Mr. Jones why the agency didn't change the PCSP?

15 A. I don't recall.

16 Q. What do you mean you don't recall? Recall  
17 what?

18 A. Your question. I mean, by the time I read his  
19 affidavit, I wasn't thinking about the text message, if  
20 that's what you're asking.

21 Q. You weren't thinking about the text message?

22 A. Right.

23 Q. The text message took place Tuesday,  
24 September 18th at 6:12 p.m., right?

25 A. Correct.

1           Q.   And then when we go and look, if I look back on  
2 page 6 of Exhibit No. 60, I have right there on the  
3 right-hand side those comments. And then within two  
4 hours -- we have 6:12 is when that was initially said,  
5 and then within two hours: "I am. It's pretty lengthy.  
6 I'm almost finished though." And we flip to the next  
7 page. It says: "I just sent you the affidavit. I will  
8 send the LIPS in a few." "Okay, thanks. Will do."  
9 "Good job on the affidavit. Please report to legal  
10 first thing." You're reviewing the affidavit within a  
11 couple of hours of you telling him the reasons that  
12 y'all didn't change the PCSP, right?

13           A.   Incorrect.

14           Q.   What's incorrect about that?

15           A.   Now you're talking about the PCSP.

16           Q.   Ma'am, look. Follow along here.

17           A.   Okay.

18           Q.   You see on this screen right now --

19           A.   Yes.

20           Q.   -- the text message from you. We know Lavar's  
21 text is on 6:12 p.m. on Tuesday, September 18th. You  
22 see that?

23           A.   Yes.

24           Q.   Okay. Do you see that you then reply back to  
25 him before there is another time bubble showing these

1 reasons why CPS removed, right, or the reasons CPS  
2 didn't do a PCSP change, right?

3 A. Correct.

4 Q. Okay. So then do you also agree that 8/28 is  
5 about 2 hours and 16 minutes after 6:12?

6 A. Correct.

7 Q. Do you see here, just going in through that:  
8 "Still working on the affidavit." "Okay." If I go to  
9 the next page, at the top: "I just sent the affidavit  
10 to you. I will send the LIPS in a few." "KK." "Okay  
11 thanks. Will do." "Good job on the affidavit. Please  
12 report to legal first thing." So do you agree that all  
13 of that was being done within a couple of hours of when  
14 you said this here about moving places the child in  
15 harm?

16 A. What's your question?

17 Q. Do you agree that you said moving the child  
18 back and forth exposes the child to further harm within  
19 a couple of hours of you reviewing Mr. Jones' affidavit?

20 A. Correct.

21 Q. So when you have -- got that knowledge within a  
22 couple of hours, did it not raise any concerns to you  
23 that Mr. Jones is sticking in the middle of that  
24 affidavit that language you just gave him?

25 A. It did not.

1 Q. Why?

2 A. Why what?

3 Q. Why didn't it concern you what is clearly not a  
4 truthful statement --

5 A. I can't answer that.

6 Q. -- being placed into a removal affidavit?

7 A. I can't answer that.

8 MR. DIEU: I would object. Compound,  
9 Judge. When you say it's not truthful, I mean, that's a  
10 compound question, Judge.

11 THE COURT: That's overruled.

12 You can answer.

13 A. Can you repeat the question?

14 Q. (BY MR. SLATE) It didn't concern you that  
15 Mr. Jones is taking the statement you just gave him via  
16 text message, some information you just gave him via  
17 text message, and sticking it into an affidavit saying  
18 that that event occurred on August 20th?

19 A. No.

20 Q. That didn't concern you?

21 A. No, it did not.

22 Q. Do you not read your -- or do you read your  
23 investigator's affidavits for truthfulness and accuracy?

24 A. Of course.

25 Q. So did this right here not appear to you to be

1 inaccurate?

2 A. No, it did not.

3 Q. Why?

4 A. What's the question? Why what?

5 Q. Why did it not appear inaccurate?

6 A. Again, because these are his thoughts. I don't  
7 have a reason to believe they are not accurate.

8 Q. Why did he just have to ask you for these exact  
9 thoughts if they were his thoughts?

10 A. Again, because we staff cases and that's a  
11 snippet of our conversation.

12 Q. Now, the other kind of big issue that is in  
13 this affidavit is the concept that CPS believed that  
14 from August 28th through September 18th, that the kids  
15 were still at the [REDACTED] house, right?

16 A. Correct.

17 Q. And that -- you tell me: What was the reason,  
18 as you understood it, that CPS wasn't making any contact  
19 with the [REDACTED] family after August 28th?

20 A. There is no reason.

21 Q. There is no -- so that would just mean that CPS  
22 was just wrong and negligent in their job if there was  
23 no reason?

24 A. I can't answer that.

25 Q. Why?

1           A.    Because I don't have the answer for that.

2           Q.    You're the supervisor, correct?

3           A.    Correct.

4           Q.    And it was one of your cases, correct?

5           A.    Correct.

6           Q.    And you have no idea why CPS didn't talk to or  
7 follow up with the [REDACTED] from August 28th through  
8 September 18th?

9           A.    From my understanding, Mr. [REDACTED] communicated  
10 that he would no longer cooperate regarding the case.  
11 That's from my understanding from the worker.

12          Q.    When did you come up with that understanding?

13          A.    I don't understand your question.

14          Q.    When did you understand it? When did that  
15 understanding first come into your thought process?

16          A.    I don't understand your question.

17          Q.    Okay. You said your understanding is that we  
18 didn't contact -- we, the agency -- didn't contact the  
19 [REDACTED]s because Mr. [REDACTED] refused to cooperate.

20          A.    Incorrect.

21          Q.    What was your statement, then?

22          A.    You asked me why the agency didn't make any  
23 contact from the 28th to the 18th and if we couldn't  
24 make contact, and I said that was incorrect. And then  
25 you asked me about why no contact was made from the

1 18th, and I'm giving you -- I told you I couldn't give  
2 you an answer to that. And then you asked, well, was it  
3 incorrect on the agency's part? And if I was the  
4 supervisor, like, why didn't it happen? I can't give  
5 you an answer as to why it didn't happen.

6 Q. So you don't have an answer as to why your  
7 workers are not making contacts with families?

8 A. I can't give you the answer because I'm not the  
9 worker to say why he didn't go out and make the contact.  
10 That's what I'm saying.

11 Q. Have you not sat down with your worker and  
12 asked him these questions since this happened?

13 A. We have discussed the case, yes.

14 Q. So you're saying you didn't ask him, hey, how  
15 come you didn't go out and have contact with the  
16 [REDACTED]?

17 A. Directives was given to make contact with the  
18 [REDACTED].

19 MR. SLATE: Objection, Your Honor.  
20 Nonresponsive.

21 THE COURT: Listen to the question.

22 Q. (BY MR. SLATE) Ma'am, did you ask him why  
23 there was no contact made with the [REDACTED]?

24 A. I don't recall.

25 Q. So are you sitting here today saying you don't



1 know why CPS didn't contact the Brights from August 28th  
2 through September 18th?

3 A. Incorrect.

4 Q. What are you saying?

5 A. What I'm saying is I can't speak to you as to  
6 why the worker didn't make the contact.

7 Q. Why?

8 A. Because I'm not the worker.

9 Q. You didn't investigate it?

10 A. Investigate the worker?

11 Q. Investigate the contact, what CPS was doing?

12 A. I don't understand your question.

13 Q. Is it your job as the supervisor to, I don't  
14 know, supervise the worker?

15 A. Correct.

16 Q. Okay. So do you have to review whether or not  
17 your workers are making IMPACT entries for each of their  
18 cases?

19 A. Correct.

20 Q. That's a way for you to determine whether or  
21 not contact's been made because all contact has to be  
22 put into IMPACT, right?

23 A. That's one of the ways, yes.

24 Q. Okay. So when did you first realize that there  
25 were no IMPACT entries for contact with the [REDACTED]

1 family after August 28th?

2 A. When we staffed the case.

3 Q. When?

4 A. So I knew contact hadn't been made with the  
5 [REDACTED] family.

6 Q. When?

7 A. Weekly.

8 Q. When?

9 A. Weekly.

10 Q. So weekly, you were looking in there and  
11 realizing no contacts were being made with the [REDACTED]  
12 family?

13 A. Incorrect.

14 Q. What's incorrect?

15 A. Again, we staffed the case and I was aware  
16 weekly through staffings, not through IMPACT.

17 Q. You were aware what?

18 A. That contact hadn't been made with the [REDACTED]  
19 family.

20 Q. So you knew every week that contact wasn't  
21 being made?

22 A. Correct.

23 Q. And what was the reason that was being told to  
24 you contact wasn't being made each week?

25 A. No reason was offered each week.

1 Q. And as the supervisor, you just accept whatever  
2 the worker tells you?

3 A. No. As the supervisor, I give directives to go  
4 out and make contact with our families.

5 Q. And you're saying after the first week, after  
6 August 28th, you would've had a weekly staffing and  
7 directed Mr. Jones to go have a contact with the [REDACTED]  
8 family?

9 A. Correct.

10 Q. And then that contact didn't happen, right?

11 A. Correct.

12 Q. All right. The next week, did you -- when you  
13 had your next staffing, did you ask Mr. Jones about  
14 whether or not he made the prior contact?

15 A. Correct.

16 Q. And what was his reply?

17 A. He hadn't made contact.

18 Q. So what did you say to him saying "I hadn't  
19 made the contact"?

20 A. "We need to get out there and see baby [REDACTED]"

21 Q. Well, did you get on to him or did you write  
22 him up for not following your directive?

23 A. No.

24 Q. Why?

25 A. Why didn't I write him up?

1 Q. Right.

2 A. He wasn't wrote up.

3 Q. Why?

4 A. I don't have an answer.

5 Q. Okay. So the next week when you had a meeting  
6 with him and he told you he didn't have any more contact  
7 with the [REDACTED], right?

8 A. Correct.

9 Q. Okay. Did you now say to him, "It's been two  
10 weeks that I've told you to go out there and you still  
11 haven't had a contact"; did you tell him that?

12 A. Correct.

13 Q. And then what did he say?

14 A. He wanted to follow up with legal.

15 Q. He wanted what?

16 A. To follow up with legal.

17 Q. So he didn't have an answer as to why he hadn't  
18 gone out and had a contact?

19 A. Correct.

20 Q. You didn't know? He wouldn't tell you  
21 anything?

22 A. I know he was working other cases as well.

23 Q. And so you just allowed him to not follow your  
24 directive as supervisor to go make contact with the  
25 [REDACTED]?

1           A.    Incorrect.

2           Q.    Well, what did you do to make sure that the  
3 corrective action was taken that your worker who's now  
4 ignored you two weeks in a row to go and see the [REDACTED]  
5 has actually gone and seen them?

6           A.    Continue to give recommendations to engage the  
7 family.

8           Q.    That's it?

9           A.    Correct.

10          Q.    Do you have a problem managing your workers or  
11 getting them to do what they are supposed to do  
12 regularly?

13          A.    Incorrect.

14          Q.    Or just Mr. Jones?

15          A.    What's the question?

16          Q.    You just have problems getting Mr. Jones to do  
17 what he's supposed to do?

18          A.    Incorrect.

19          Q.    What's incorrect about that?

20          A.    Because this was one case out of many cases, so  
21 that's an incorrect statement.

22          Q.    Why couldn't you get Mr. Jones to do his job on  
23 the [REDACTED] case?

24          A.    I don't have an answer.

25          Q.    So when you come to do this removal, you need

1 your PD and the Court to believe that the kids have been  
2 back with the [REDACTED] all the way back to August 28th,  
3 and you need your PD and the Court to believe that you  
4 and Mr. Jones didn't know that, right?

5 A. Can you rephrase your question?

6 Q. You need the Court and your PD to believe that  
7 you and Mr. Jones had no knowledge that the kids had  
8 been back with the [REDACTED] all the way since  
9 August 28th, right?

10 A. Incorrect.

11 Q. Why?

12 A. We needed the courts to understand the severity  
13 of the injury to the child.

14 Q. So you're saying that if the courts knew that  
15 there had been three weeks gone by that the kids were  
16 back home, that that wouldn't have played into whether  
17 or not there was an emergency to do a removal right  
18 then?

19 A. I can't answer that question.

20 Q. Why?

21 A. Because I'm not the courts.

22 Q. Well, ma'am, you saw in the affidavit where the  
23 statement was made that there is an emergency, right?

24 A. Correct.

25 Q. Here it says: "But considering the immediate

1 needs to protect the child, removal of the child is  
2 necessary."

3 A. Correct.

4 Q. That wouldn't be the case if we told the Court,  
5 hey, yeah, we've known the kids have been back home for  
6 three weeks. That wouldn't -- if you said that, "The  
7 kids have been back home for three weeks. We've known  
8 about it, but now we're here for an emergency," that  
9 really wouldn't make sense, would it?

10 MR. DIEU: Objection. Speculation, Judge.

11 THE COURT: I'm not sure what you mean by  
12 it wouldn't really make sense. Make sense to whom?

13 Q. (BY MR. SLATE) Do you think it would make a  
14 lot of sense to your PD when you're explaining this to  
15 her as to why you need to remove, if you had told your  
16 PD, "We know the kids have been back home with the  
17 parents for three weeks"?

18 A. Incorrect.

19 Q. What's incorrect about that?

20 A. I didn't know the kids were home for three  
21 weeks.

22 Q. So if you did --

23 A. But I didn't.

24 Q. Ma'am, if you did, and you told that to your  
25 PD, do you think that would've mattered to her whether

1 or not she thought this was an emergency removal case?

2 A. I can't answer that question.

3 MR. DIEU: Judge --

4 THE COURT: Hang on.

5 MR. DIEU: -- I object as speculations.

6 THE COURT: Speculation as to what the PD  
7 would've thought, that's sustained.

8 Q. (BY MR. SLATE) If you are making this  
9 decision, if you know that the kids had been home for  
10 three weeks and you knew it the entire time, would you  
11 have thought that this was an emergency three weeks  
12 later then to remove the kids?

13 A. I don't understand your question.

14 Q. Let's pretend as of August 28th that Ms.  
15 Edwards, the supervisor, knows the kids are back home.  
16 And on September 28th, the worker says, hey, I think we  
17 need to do a removal. If you're the supervisor, would  
18 you authorize a removal? Would you recommend a removal  
19 if you'd known the entire time the kids were at home?

20 A. No.

21 Q. So it's really important that everyone that  
22 reads this going forward thinks that you and Mr. Jones  
23 had no idea these kids were home the entire time, right?

24 A. What's the question?

25 Q. It's real important for everyone -- your PD,



1 for the Court, for everybody -- to think that you and  
2 Mr. Jones did not know these kids were home all three  
3 weeks before you removed them, right?

4 A. Incorrect.

5 Q. Because you just said if you -- if you had  
6 known, that you wouldn't have sought removal of them,  
7 right?

8 A. Incorrect.

9 Q. What's incorrect about that?

10 A. A removal would've still been sought. I  
11 wouldn't have just let the kids remain in Mr. and  
12 Mrs. [REDACTED]'s care. I would've asked for a different  
13 type of removal. But we still would've sought legal  
14 intervention, yes.

15 Q. Now, that -- who is the authorizing person to  
16 extend an investigation?

17 A. Myself.

18 Q. The supervisor can do it without PD request or  
19 PD approval?

20 A. Correct.

21 Q. And how long can a supervisor extend out an  
22 investigation without asking the PD?

23 A. 30 to 60 days.

24 Q. So at 60 days, then the PD has to approve it?

25 A. Correct.

1 Q. And we know that this case on September 18th  
2 was at its 60-day mark, right?

3 A. I don't recall.

4 Q. Well, we know that you first got involved on  
5 July 19th, right?

6 A. Uh-huh. Correct.

7 Q. So that would put it at the 60-day mark on  
8 September 18th, right?

9 A. Correct.

10 Q. That means at that point in time -- because you  
11 approved the extension of the supervision -- of the  
12 investigation back in August the first go-round, right?

13 A. I don't recall if an extension was requested in  
14 August. I don't recall.

15 Q. Here. I'll show you page 12 of Exhibit 55. Do  
16 you see here where it says: "Extension request"?

17 A. Yes.

18 Q. Okay. Then do you see right here where it  
19 says: "LJ - extension request submitted for approval,"  
20 and then it says: "Approval"?

21 A. Yes.

22 Q. Okay. That approval would've come from you,  
23 right?

24 A. Correct.

25 Q. Okay. So it's going to come up again at its

1 60-day mark in September, and now you're going to need  
2 to have the PD hear what the facts of this case are,  
3 right?

4 A. Incorrect.

5 Q. So the PD doesn't need to know the facts in  
6 order to approve extension of the investigation beyond  
7 60 days?

8 A. That's not I'm saying "incorrect" to.

9 Q. Well, does the PD need to hear the facts of the  
10 case in order to authorize the extension past 60 days?

11 A. The PD already knows the --

12 Q. I'm asking do they need to know them, ma'am?

13 A. Correct.

14 Q. Okay. So that would've required someone  
15 telling the PD that these kids have been at home for  
16 22 days, right?

17 A. I can't answer that question.

18 Q. You don't think the PD would need to know where  
19 the kids were to authorize extension of the  
20 investigation?

21 A. She would, yes.

22 Q. So if you're faced now, on September 18th, of  
23 telling the PD what happened and that y'all have known  
24 about these kids being home, or if you go the other  
25 option of telling the PD you didn't know and you just

1 found out on September 18th that they'd been home and  
2 asked for removal, right?

3 A. Correct.

4 Q. Those are the two options you had, right?

5 Right, ma'am?

6 A. What's the question?

7 Q. Those were the two options you have, right?

8 A. What are the two options?

9 Q. So tell the PD everything and ask for an  
10 extension, or to tell the PD everything and ask for a  
11 removal?

12 A. Incorrect.

13 Q. What was the other -- what's incorrect about  
14 the statement?

15 A. That we had to present options to move forward  
16 with the case. That's incorrect.

17 Q. Okay. So on that day, you were going to have  
18 to either get an extension from the PD or do a removal,  
19 right?

20 A. Incorrect.

21 Q. What else could you have done?

22 A. Continue on the investigation.

23 Q. Without an extension?

24 A. The extension would've taken place.

25 Q. When?

1           A.    When the extension was requested.  The  
2 extension was needed because the investigation wasn't  
3 concluded.

4           Q.    And when would the extension request have to be  
5 made, ma'am?

6           A.    30 to 60 days.

7           Q.    So on September 18th, right?

8           A.    On or about, yes.

9           Q.    So at that time, you're either making an  
10 extension request to the PD or filing for a removal,  
11 right?

12          A.    Incorrect.

13          Q.    What's incorrect about that?

14          A.    You're saying we're only asking for an  
15 extension, otherwise we're going to close it or we're  
16 going to file for a removal?

17          Q.    I'm saying if you want to keep investigating,  
18 you've got to get an extension, right?

19          A.    That's correct.

20          Q.    And you got to get from the PD?

21          A.    Correct.

22          Q.    And you got to get it on September 18th?

23          A.    On or about, yes.

24          Q.    Okay.  If you can't extend the investigation,  
25 then you need to do a removal, right, or close the

1 investigation? I guess that's a third option; you  
2 could've just closed the investigation, right?

3 A. Correct.

4 Q. But you weren't going to close it, right?

5 A. Correct.

6 Q. So that leaves those two other options,  
7 correct?

8 A. Correct.

9 Q. Now, is there -- is there any policy at CPS  
10 about whether or not you should have notified the PD as  
11 soon as you knew the kids were back home?

12 A. No, there is not a policy.

13 Q. Okay. So if you had known that the kids were  
14 back home on September 18th, there is no policy -- or  
15 August 28th, I'm sorry -- there is no policy that would  
16 have required you to notify the PD?

17 A. It is a serious injury case, so a PD is  
18 notified of everything throughout the case.

19 Q. So that would've been something you needed to  
20 notify her?

21 A. Correct.

22 Q. Now, when the -- what would've been reasonable  
23 steps for CPS to have taken between August 28th and  
24 September 18th to figure out where the [REDACTED] children  
25 were?

1           A.    To continue to engage the family.

2           Q.    Tell me how -- what the reasonable steps  
3 would've been, how that would've worked.

4           A.    By engaging the family?

5           Q.    How would that work? How do you engage the  
6 family? Tell me specifically what would've been  
7 reasonable steps that CPS could've taken.

8           A.    Calling the family, making home visits to the  
9 family, making home visits to Mr. and Mrs. [REDACTED]  
10 because that's where the children were placed, calling  
11 the [REDACTED], calling the parents.

12          Q.    Anything else?

13          A.    With engaging the family?

14          Q.    With trying to take reasonable steps to ensure  
15 where the [REDACTED] children were between August 28th and  
16 September 18th?

17          A.    Again, engaging the family, calling, making  
18 home visit.

19          Q.    Did CPS take any of those reasonable steps?

20          A.    No.

21          Q.    Then we talked last time a little bit about  
22 there being medical doctors involved in this -- in  
23 [REDACTED]'s care, right?

24          A.    Correct.

25          Q.    Do you think CPS was reasonable in its

1 investigation steps to follow up with the medical  
2 doctors?

3 MR. DIEU: Judge, I object to the form of  
4 the question. "CPS" mean who? Is it one individual,  
5 caseworker, supervisor or who? He said "CPS."

6 THE COURT: I thought we had sort of  
7 stipulated earlier in the hearing that when CPS was  
8 referred to, it meant the actual agency, FPS, as opposed  
9 to individual employees, but -- is that correct?

10 MR. SLATE: Yes, Your Honor.

11 THE COURT: So you mean the agency.

12 MR. SLATE: I mean anyone in the agency as  
13 representatives of the agency.

14 MR. DIEU: Then I object to form because  
15 there are several people involved.

16 THE COURT: That's overruled.

17 You can answer.

18 A. Can you repeat the question?

19 Q. (BY MR. SLATE) When we talked last time about  
20 checking up with medical doctors, we talked about how  
21 there were various doctors that were responsible for  
22 care of [REDACTED] right?

23 A. Correct.

24 Q. Was -- we also talked about the fact that there  
25 were no contacts made by CPS to follow up with any of



1 the medical doctors about Mason's diagnosis prior to  
2 removal, right?

3 A. Incorrect.

4 Q. What's incorrect about that?

5 A. Follow-up did take place with persons of part  
6 of the CAP team involved in [REDACTED]

7 Q. My question is specific with doctors, so I'm  
8 going to let you, under oath, tell us what doctors were  
9 followed up with prior to the removal? My question was  
10 doctors. You told me there is doctors and I was  
11 incorrect. Tell me the name of the doctors followed up  
12 with under oath?

13 A. I never said doctors.

14 Q. I did, and you said, yes, that's an incorrect  
15 statement.

16 A. It was an incorrect statement.

17 Q. Okay. So when I said -- I said CPS didn't  
18 follow up with any doctors prior to removal and you said  
19 that's incorrect, right?

20 A. Yes.

21 Q. So tell me the name of the doctor that makes  
22 that an incorrect statement that you followed up with  
23 prior to removal?

24 A. It makes it an incorrect statement because we  
25 talked to social worker.

1 MR. SLATE: Objection, Your Honor.

2 Nonresponsive.

3 THE COURT: That's sustained.

4 Q. (BY MR. SLATE) Ma'am, my statement was doctor.  
5 I didn't ask you about social workers. So tell me the  
6 name of the doctor.

7 A. No name of the doctor.

8 Q. Because you didn't talk to them?

9 A. I did not talk directly to doctors.

10 Q. So it wasn't an incorrect statement?

11 A. No, it was an incorrect statement.

12 Q. So when I said, "Tell me name of the doctors  
13 you followed up with," that's incorrect?

14 A. It is.

15 MR. DIEU: Objection. Argumentative,  
16 Judge.

17 THE COURT: That's overruled.

18 Q. (BY MR. SLATE) It's incorrect why?

19 A. Again, it's incorrect because we talked to the  
20 social workers who talked to the doctors.

21 Q. When you're feeling sick, do you go see a  
22 social worker to help you not feel sick?

23 A. No.

24 Q. Do you go to a doctor?

25 A. Yes.

1           Q.    So in a case where you have a medical  
2 diagnosis, does it seem reasonable to go to a social  
3 worker to talk about a medical diagnosis or a doctor?  
4 What's most reasonable, for CPS to talk to doctors or  
5 social workers about medical diagnoses?

6           A.    Reasonable?

7           Q.    Right.

8           A.    The social worker.

9           Q.    That's the most reasonable? That's a most  
10 reasonable, right?

11                   THE WITNESS: Is that a yes or no question?

12                   THE COURT: I think the question is what's  
13 the most reasonable, for CPS to talk to doctors or for  
14 CPS to talk to social workers?

15                   Is that correct?

16                   MR. SLATE: About medical diagnoses.

17                   THE COURT: About medical diagnoses.

18           A.    Both.

19           Q.    (BY MR. SLATE) And social workers have medical  
20 training in what?

21           A.    Being a part of the CAP team, the child abuse  
22 team.

23           Q.    So they make medical diagnoses?

24           A.    They do not make any medical diagnoses, no.

25           Q.    And they are trained to read medical files; is

1 that it?

2 A. I can't answer that question.

3 Q. But you're assuming that that's the reasonable  
4 person to talk to when you're trying to find out medical  
5 diagnoses, right?

6 A. Incorrect.

7 Q. What's incorrect about that?

8 A. The social worker have direct contact with the  
9 doctor, is what I'm saying.

10 Q. So you're saying reasonable investigation on  
11 behalf of CPS on a medical injury case is to not talk to  
12 the doctor, but instead to talk to a social worker,  
13 assuming she's talked to doctors?

14 A. Incorrect.

15 Q. What's incorrect about it?

16 A. I didn't say we shouldn't talk to a doctor.

17 Q. I said what's reasonable? What's the  
18 reasonable practice?

19 A. Both.

20 Q. So did CPS conduct reasonable investigation in  
21 this case if they are supposed to talk to both?

22 A. No.

23 Q. Now, I want to ask you: The rules within CPS  
24 are contained within what's known as the caseworker's  
25 handbook, right?

1           A.    Correct.

2           Q.    And there are certain sections within that  
3 handbook that essentially tell you about requirements --  
4 paperwork, deadlines, things like that -- that y'all  
5 have to document cases by, right?

6           A.    Correct.

7           Q.    They are specific sections for investigations  
8 versus FBSS, versus CVS, right?

9           A.    Right.

10          Q.    You fall under the rules for investigations,  
11 right?

12          A.    Correct.

13          Q.    Now, in there it talks about certain rules that  
14 have to be followed regarding when documentation has to  
15 happen in the investigation phase, right?

16          A.    Correct.

17          Q.    And "documentation," meaning putting in notes  
18 into the IMPACT database, right?

19          A.    Correct.

20          Q.    There are various requirements for inputting  
21 information into IMPACT ranging from immediately, to  
22 within 24 hours, to up to seven days, right?

23          A.    Correct.

24          Q.    Do you know of anything in your -- in the CPS  
25 rules and regulations that allow for IMPACT entries to

1 occur later than seven days?

2 A. No.

3 Q. Now, here on Exhibit No. 15, we have a series  
4 of text messages that go through between Mr. Jones and  
5 the mother, [REDACTED] that are talking about when  
6 the PCSP will be approved, right?

7 MR. DIEU: Judge, is there a text?

8 MR. SLATE: I'm sorry. I forgot to hit the  
9 button.

10 Q. (BY MR. SLATE) Do you see that?

11 A. Yes.

12 Q. And these are text messages about the PCSP  
13 getting approved on y'all's end after having the family  
14 team meeting on August 14th, right?

15 A. Correct.

16 Q. Okay. Now, here, we see down there at the  
17 bottom, August 22nd, we've got Ms. [REDACTED] telling Lavar  
18 that they plan on discharging them from the hospital on  
19 that day, and then we have Lavar Jones replying back to  
20 her that, "Okay," because they are asking about going to  
21 Deloris's house. "Okay, that should be fine." Did you  
22 ever see that text message?

23 A. I did not.

24 Q. Did you know that Mr. Jones had said that would  
25 be fine for them to go to [REDACTED]'s house after they

1 left the hospital?

2 A. I didn't know when he sent the message, but a  
3 phone call did take place.

4 Q. Between who?

5 A. Based upon this text message, Mrs. [REDACTED] was  
6 upset that Mr. Jones informed her that [REDACTED] could not  
7 be transported to the [REDACTED] but back to the [REDACTED],  
8 so a conversation was had between myself, Ms. [REDACTED]  
9 Mr. Jones.

10 Q. How did this get brought to your attention that  
11 Mr. Jones had authorized them to go home to [REDACTED]'s  
12 house?

13 A. Ms. [REDACTED] was upset that Mr. Jones would not  
14 approve for the child to be taken to the [REDACTED] so  
15 they called me on a phone call.

16 Q. He actually does approve it right there. He  
17 says, "Okay, that should be fine," when they are asking  
18 about going to Ms. [REDACTED] home, right?

19 A. Incorrect. I can't speak to what he meant by  
20 "that should be fine."

21 Q. Now, do you agree with Mr. Jones' statement  
22 there that "We did consult legal and we do not have  
23 grounds for removal"?

24 A. I do not.

25 Q. What do you disagree with?

1           A.    I don't agree that that -- it's too vague to  
2 tell it to the family in that context.

3           Q.    What was vague about it, that we don't have  
4 grounds for removal?

5           A.    I believe a phone call would've gave more  
6 clarity on that text.

7           Q.    Okay. So you believe that wasn't clear enough?

8           A.    I do not believe it was clear.

9           Q.    Okay. When we looked at the next page, you see  
10 here where it shows on Thursday, August 23rd, Ms. [REDACTED]  
11 is asking for any update, and Mr. Jones telling her  
12 nothing yet?

13          A.    Correct.

14          Q.    So you would agree with me that clearly, this  
15 wasn't discussed on August 20th with Ms. [REDACTED] this  
16 concept of we're not going to be able to move [REDACTED] back  
17 and forth because of all his different hospital visits?

18          A.    Incorrect.

19          Q.    Well, why would she be continuing to ask if the  
20 child's going to get moved if CPS has already told her  
21 it's not going to happen?

22          A.    I can't speak to why she sent that text.

23          Q.    Well, how about here when we look on the next  
24 page, on page 8, when she says, "Since you can't do  
25 anything about this, what can you do to set up a meeting



1 with family services?" And Mr. Jones replies, "A  
2 meeting will probably take place sometime next week."  
3 And Ms. [REDACTED]'s question, "And what can we do to ensure  
4 we can move tomorrow," and Mr. Jones replying, "I really  
5 hope she approves the PCSP soon." Does that seem to  
6 coincide with the thought that the PD has already denied  
7 the change of placement?

8 A. I don't understand your question.

9 Q. Well, you're saying that this right here in the  
10 removal affidavit is correct as it states for this  
11 August 20th entry, right? Here is this August 20th  
12 entry that we talked about a minute ago where it goes  
13 through and says that "We don't have an approval due to  
14 there being concerns with moving the child who has  
15 suffered multiple serious injuries." That doesn't  
16 really coincide with an August 23rd text message, him  
17 saying "I hope she approves it tomorrow," right?

18 A. I can't answer about his text messages.

19 Q. You would agree with me those two things don't  
20 seem to go together. If Mr. Jones has already known on  
21 August 20th that the PCSP isn't going to get approved  
22 because moving a child around with serious -- multiple  
23 serious injuries puts the child at risk of harm, that he  
24 shouldn't be telling -- you agree he shouldn't be  
25 telling Ms. [REDACTED] that we're still waiting for the PD

1 to make a decision, right?

2 A. Again, I can't answer why they had those text  
3 messages.

4 Q. I'm not asking you to say why. You agree with  
5 me that telling Ms. [REDACTED] here, "I really hope the PD  
6 approves the PCSP soon," is not good information to tell  
7 Ms. [REDACTED] when if -- if -- what we see in the removal  
8 affidavit is true, right?

9 A. Can you re-ask your question?

10 Q. Okay. What's in the removal affidavit says  
11 that as of August 20th, CPS knew they were not going to  
12 agree to change the PCSP, right?

13 MR. DIEU: Objection. Misstatement of the  
14 facts.

15 THE COURT: That's overruled.

16 A. Can you restate the question?

17 MR. SLATE: Ms. Massey, can you help?

18 THE REPORTER: "What's in the removal  
19 affidavit says that as of August 20th, CPS knew they  
20 were not going to agree to change the PCSP, right?"

21 A. At that time.

22 Q. (BY MR. SLATE) Okay. What was the time that  
23 CPS was going to approve it?

24 A. Again, the program director has to approve the  
25 change in placement.

1           Q.    Ma'am, you said earlier when we saw your text  
2 message that that was what the -- the whole reason the  
3 placement was never changed was based upon what you said  
4 here, Exhibit 55, page 425. You said that this was the  
5 reason CPS never changed the placement, and that was all  
6 the way through this case, right?

7           A.    Incorrect.

8           Q.    What's incorrect about it?

9           A.    The dates. This date is based upon a  
10 conversation in September. You're asking me about an  
11 August 20th change in placement. That placement didn't  
12 change because of the different circumstances and roles  
13 when we made that agreement to change that placement,  
14 which is what I said earlier.

15          Q.    Ma'am, when we talked about this particular  
16 text message earlier, I asked you about why does Lavar  
17 need this information from you if he knew the  
18 information back on August 20th; do you recall that?

19          A.    Yes.

20          Q.    Do you recall me showing you that the  
21 August 20th IMPACT entry doesn't say anything about  
22 moving the child around places the child at risk and  
23 exposure to further harm. Do you remember me showing  
24 you that?

25          A.    I don't recall.

1           Q.    You don't recall looking at that IMPACT entry a  
2 little while ago?

3           A.    Yes.

4           Q.    Okay.  And when we look at the affidavit, it  
5 has your statement in there, that statement there about  
6 moving the child would cause risk of injury, right?

7           A.    Incorrect.

8           Q.    Okay.  And -- what I was asking you, ma'am, is  
9 when we see that statement in the affidavit about there  
10 being concerns with moving the child which suffered  
11 multiple serious injuries, if we believe this affidavit,  
12 we believe CPS had that thought as of August 20th,  
13 right?

14          A.    Correct.

15          Q.    We also believe that that was communicated to  
16 Ms. [REDACTED] on August 20th, right?

17          A.    What is that?

18          Q.    That "I informed Ms. [REDACTED] we do not have  
19 approval due to there being concerns with moving the  
20 child who has suffered multiple serious injuries,"  
21 right?

22          A.    I don't know what you're referring to right  
23 now.

24          Q.    Do you see that?  "I informed Ms. [REDACTED] that  
25 we do not have an approval right now due to there being

1 concerns with moving the child who has suffered multiple  
2 injuries."

3 A. Correct.

4 Q. You agree that Ms. [REDACTED] would have -- if we  
5 believe this affidavit, Ms. [REDACTED] would've known that  
6 information on August 20th?

7 A. Correct.

8 Q. So if we believe that Ms. [REDACTED] knows that  
9 information, do these text messages that she's having  
10 with Lavar make any sense on August 23rd, going "I  
11 really hope she approves the PCSP soon"?

12 MR. DIEU: Judge, I object. Asked and  
13 answered. We have gone through this again and again.  
14 I'm not sure how many minutes. And Mr. Slate keep  
15 asking the same questions again and again that's being  
16 answered.

17 THE COURT: Response.

18 MR. SLATE: Judge, actually she refuses to  
19 answer the questions. She continually goes around in  
20 circles and says, "I don't understand," or "I don't  
21 remember," or "I don't recall," or "That's not what I  
22 said." And trying to get her pinned down to where that  
23 goes is kind of important. This time line is kind of  
24 important.

25 MR. DIEU: And she already answered. I

1 don't know what Mr. Slate seeking. I mean, he want an  
2 answer that he want; and if he doesn't, he keep asking  
3 the same, so it's asked and answered. I object. Asked  
4 and answered. We keep going back and back and back for  
5 the last several minutes.

6 MS. PROFFITT: I think if we can stipulate  
7 that his affidavit says that on August 20th, he said  
8 certain things to Ms. [REDACTED] and that's not what was in  
9 his text. And we could stipulate when he tells her "I  
10 really hope things are going to be approved soon," just  
11 a few days after he allegedly told her, "These are our  
12 concerns," that that would be inconsistent with his  
13 affidavit. And that it's consistent that his affidavit  
14 almost states verbatim what she told him in the text  
15 message, then we don't have to keep going around in  
16 circles. But she keeps -- we get to this next step, and  
17 then she doesn't understand the question or she doesn't  
18 understand what we're leading to or whatever. But if we  
19 can all agree to that, we can move on.

20 MR. DIEU: Judge, I can't stipulate to  
21 anything that is already in the evidence. The evidence  
22 speak for itself. All I'm saying is it's asked and  
23 answered. Mr. Slate keep going back to the same  
24 questions again and again, and the supervisor has  
25 already answered.

1 THE COURT: That's overruled.

2 Please answer.

3 A. Can you ask the question?

4 MR. SLATE: Ms. Massey?

5 THE REPORTER: "So if we believe that

6 Ms. [REDACTED] knows that information, do these text

7 messages that she's having with Lavar make any sense on

8 August 23rd, going 'I really hope she approves the PCSP

9 soon'?"

10 A. Again, I can't answer why she's sending these  
11 text messages.

12 Q. (BY MR. SLATE) I didn't ask you why she's  
13 sending it. I'm asking you does it make sense to you,  
14 as a supervisor of investigators, for this conversation  
15 to be happening you see on the screen if we believe that  
16 removal affidavit?

17 A. I can't answer that question.

18 Q. Okay. Do you think that that says anything  
19 about your investigation skills that you can't answer  
20 it?

21 A. I don't.

22 Q. Why?

23 A. I don't.

24 Q. What about here when we ask for another -- "Any  
25 update?" "Not yet." Does that seem to jive or go along

1 with what's in the removal affidavit?

2 A. Yes.

3 Q. How?

4 A. Because the family was never told a definite  
5 no. The family should've been told again that it was  
6 contingent upon what the PD would approve, pertaining to  
7 the parental child safety placement.

8 Q. Okay. And then here, I'm going to show you  
9 Exhibit No. 24 and page 10 of that exhibit. These are  
10 text messages between [REDACTED] and Lavar Jones.  
11 Do you see here Ms. [REDACTED] saying, "I'm starting dinner  
12 and need to know how many I'm cooking for." You see  
13 Mr. Jones reply, "Sorry. PD still hasn't approved yet?"

14 A. Yes.

15 Q. You do see here on the top where it says that  
16 that was done on August 23rd?

17 A. Yes.

18 Q. You see anything on there where it says it's  
19 been denied and not going to be able to do it? You see  
20 anything up there saying the placement has been denied?  
21 Ma'am?

22 A. I've never seen this, so I need to read it.  
23 Okay. What's the question?

24 Q. You see anything on there where it tells  
25 Ms. Jester that the placement's been denied?



1           A.    No.

2           Q.    And, in fact, down here at bottom, there is  
3 another statement by Mr. Jones saying "I wish I could  
4 speed it up; however, it is out of my hands. The PD  
5 knows about the PCSP. We're just waiting on her to give  
6 us the okay." You see that?

7           A.    Yes.

8           Q.    And that's also not telling Ms. [REDACTED] that  
9 it's going to be denied because moving the kids around  
10 too much is going to be harmful to them?

11          A.    Correct.

12          Q.    You think that this text message coincides with  
13 what's in this affidavit?

14          A.    No.

15          Q.    And here, if we look on the next page, we see  
16 in these two bubbles, "Is the PCSP what you were telling  
17 me about moving the case out of investigation to the  
18 other department?" Mr. Jones, "Not exactly. The  
19 children are in an approved PCSP with parental  
20 grandparents now. Will (sic) waiting on the PD to  
21 approve the PCSP at your residence." Does that sound  
22 consistent with what's in the affidavit?

23          A.    I don't understand.

24          Q.    Does this text back and forth between Ms.  
25 [REDACTED] and Mr. Jones sound consistent with the affidavit

1 saying that as of the 20th, CPS knew that the placement  
2 was disapproved?

3 A. I can't answer that question.

4 Q. And then here, we're still on that page. Go to  
5 page 11, page 12, page 13. Page 13, you see Mr. Jones'  
6 statement here, still talking about that same PCSP where  
7 he says, "It's okay. I do understand you guys'  
8 frustration and wish I had the power to approve, which  
9 the whole situation would've never happened and we would  
10 not have to go through this. But do know I'm working  
11 hard to move forward."

12 MR. DIEU: Judge, may I ask Mr. Slate to  
13 clarify because the texts, I'm not sure from the  
14 caseworker Mr. Jones, whether it is to Mrs. [REDACTED] or to  
15 Mrs. [REDACTED] or to Mrs. [REDACTED] Kind of confusing  
16 because sometimes it is to Mrs. [REDACTED], and sometimes it  
17 is to Mrs. [REDACTED] This one, I'm not sure from whom to  
18 whom.

19 MR. SLATE: Judge, this is Exhibit 24.  
20 I've said several times this is a text between [REDACTED]  
21 [REDACTED] and Lavar Jones. Exhibit 24.

22 THE COURT: Okay.

23 Q. (BY MR. SLATE) Ma'am, you see that there, does  
24 that seem consistent with the thought that Mr. Jones  
25 knew back on August 20th that the PD had disapproved the

1 placement?

2 A. Again, I can't answer this question.

3 Q. And then here, the next page on page 14, you  
4 see Friday, August 24th, up there at the top?

5 A. Yes.

6 Q. Says, "Sweet Lavar, who's in the middle of such  
7 an ugly mess. Is there any way this is going to be  
8 settled today so we don't have to go into the weekend?"  
9 Please read Mr. Jones' reply.

10 A. "I have inquired from Ms. Edwards, and she  
11 informed me that it has not been approved yet."

12 Q. So Mr. Jones came to you and asked you about  
13 it, right?

14 A. Correct.

15 Q. Did you tell him that it had been disapproved  
16 because moving the kids back and forth would be harmful?

17 A. I told him that --

18 Q. Yes or no, you told him that?

19 MR. DIEU: Judge, the text message says it  
20 has not been approved yet. It doesn't say that it was  
21 not approved.

22 THE COURT: All right. But the question  
23 was whether this witness told him whether it had been  
24 disapproved because moving the kids back and forth would  
25 be harmful, so...

1 MR. SLATE: Right.

2 THE WITNESS: Me telling this to --

3 THE COURT: Okay, you can't talk to me  
4 directly. If you have a question, you can articulate it  
5 to everyone.

6 A. Your question is whether I told Mr. Jones?

7 Q. (BY MR. SLATE) Yes.

8 A. That it wasn't approved due to the movement of  
9 the child?

10 Q. Right.

11 A. Correct. Yes.

12 Q. Okay. So when he says "I have inquired from  
13 Ms. Edwards and she informed me it's not been approved  
14 yet," he's not telling her apparently what you're  
15 telling him. He's not telling Ms. [REDACTED] what you're  
16 telling him that it's not going to be approved because  
17 it would be harmful medically, right?

18 A. I can't answer that question.

19 Q. Yeah, you can. Look at it. He's not saying in  
20 that -- do you see anywhere in that text bubble where  
21 he's telling what you're apparently telling him?

22 A. No.

23 Q. So Mr. Jones is just leading Ms. [REDACTED] on that  
24 eventually it's going to happen, but we know from  
25 talking to you that it wasn't going to happen as of

1 August 20th, correct?

2 A. Incorrect.

3 Q. Why?

4 A. Why?

5 Q. Why is that incorrect?

6 A. It's incorrect because these are just, again,  
7 text messages. I can't speak to verbal phone calls that  
8 may or may not have taken place.

9 Q. So when we then turn around and look, we know  
10 from your text that you were keenly aware as of  
11 September 18th all the contents in that affidavit based  
12 upon that text message you sent there on the -- "Good  
13 job on the affidavit. Please report to legal," right?

14 A. Correct.

15 Q. And then when we look at Exhibit 55, page 115,  
16 we know from that August 20th entry that it was -- it's  
17 missing the part in there about the change in placement,  
18 right? About the PD not approving the change in  
19 placement, right?

20 A. Incorrect.

21 Q. Okay. Then here, when we look at -- when we  
22 look back at your text message, and you're the one who  
23 listed out on September 18th the reasons why there would  
24 be a -- not be a change in placement. At least you had  
25 to explain it to Lavar. Do you remember doing that?

1           A.    Correct.

2           Q.    Now, we talk about how, then, those reasons get  
3 added to Mr. Jones' affidavit, right?

4           A.    Incorrect.

5           Q.    And then we talked about how the rules require  
6 all of the contacts that are made in investigations to  
7 be done no later than seven days, right?

8           A.    Correct.

9           Q.    If we look here on page 13 -- actually, I'll  
10 start on page 10 of Exhibit 55. This is the case event  
11 list. You see that?

12          A.    Yes.

13          Q.    Okay. And you see when we look at these  
14 contacts here, we see that if a contact was made on  
15 7/27, then the event date shows when that contact was  
16 entered into IMPACT, right?

17          A.    Correct.

18          Q.    So, like, here we see that there was a contact  
19 made on 7/19 and it was entered into IMPACT on 8/10,  
20 right?

21          A.    Correct.

22          Q.    That would be outside the rules as far as  
23 getting these things in timely, correct?

24          A.    Correct.

25          Q.    When we go to the next page, page 12, the same

1 thing. We have contacts entered -- say, for instance,  
2 here where a contact was made on 8/21, and then it was  
3 entered also on 8/21, right? That's the extension  
4 request, right?

5 A. Correct.

6 Q. Now, it's entered in there at 9:43, and  
7 one minute later is when it gets approved, right?

8 A. Correct.

9 Q. So were you and Mr. Jones together when that  
10 was done?

11 A. Incorrect.

12 Q. How did you do it one minute later?

13 A. I got notifications on my computer.

14 Q. Okay. When we look here on page 13, we see  
15 something kind of interesting. First is -- let me stop  
16 that question. Do you remember what day it was that  
17 Mr. Jones came down to see legal and to the court to  
18 seek removal of the children?

19 A. September 18th, I believe.

20 Q. If we look at this removal --

21 A. Or September 19th. September 18th or  
22 September 19th.

23 Q. I'm going to show you what's marked as Exhibit  
24 No. 13. Do you see here on the screen the date that the  
25 removal order was filed and signed?

1           A.    Up at the top.

2           Q.    You see it up there at the top?

3           A.    Yes.

4           Q.    What was that?

5           A.    The 19th.

6           Q.    Okay.  So you see it was filed here at 12:20?

7           A.    Yes.

8           Q.    All right.  So if I go back to Exhibit 55,  
9 here, do you see this entry on 9/19/2018?

10          A.    Yes.

11          Q.    Okay.  You see that it was done at 11:36 a.m.?

12          A.    Correct.

13          Q.    That would've been while Mr. Jones was down at  
14 legal getting this affidavit approved, right?

15          A.    I can't answer that question.

16          Q.    Well, we know that he was -- at least this  
17 thing doesn't get filed, by Exhibit No. 13, until we see  
18 that time stamp up there on Exhibit 13, right?

19          A.    Correct.

20          Q.    Okay.  And it wasn't filed until 12:20, right?

21          A.    Correct.

22          Q.    So we know this is while Mr. Jones is in legal  
23 and he is still putting together -- and he is still  
24 putting together his paperwork because they filed the  
25 petition and the order all together, right?



1           A.    Again, I can't answer that question.

2           Q.    Okay.  When we look at that Exhibit 55,  
3 interestingly enough, it's an entry for 9/19 at  
4 11:36 a.m., but it is for an entry that occurred on  
5 August 28th, 2018, right?

6           A.    Correct.

7           Q.    Now, what was -- what was the important thing  
8 that happened on August 28th, 2018?

9           A.    A phone conversation with Mr. Jones and Father,  
10 Mr. [REDACTED]

11          Q.    So that is getting put into IMPACT on -- on  
12 September 19th while Mr. Jones is down here in legal,  
13 right?

14          A.    Again, I can't answer that question.

15          Q.    Okay.  So does it seem a little out of place  
16 that all these entries here are -- when we look at the  
17 page, contacts were made on 8/22, like, for instance  
18 here, entered into IMPACT on August 23rd.  And here,  
19 September 18th for September 18th.  But when we get down  
20 here, strangely enough, while we're down here at legal,  
21 an entry gets made for the day that supposedly a  
22 conversation was had between Mr. [REDACTED] and Mr. Jones  
23 saying "I'm going to take the kids and take them home,"  
24 right?

25          A.    Incorrect.

1 Q. What's incorrect?

2 A. On the 28th, that's not the conversation that  
3 was had about Mr. [REDACTED] taking the children on the  
4 28th, no.

5 Q. What was had?

6 A. A conversation about Mr. [REDACTED] feeling as  
7 though the agency made things hard for his family, and  
8 he no longer will cooperate with the agency.

9 Q. Well, what we don't know is -- from that  
10 contact log, all we know is that someone got into that  
11 particular contact and made a change or added it, right?

12 A. Correct.

13 Q. Could be that someone went in there and erased  
14 some things that were in that contact, right?

15 A. I can't answer that question.

16 Q. Could be, right? That contact log is telling  
17 us that somehow or another, there was an edit or maybe  
18 even made it all together on that date, right?

19 A. Correct.

20 Q. And do you think it's a little suspicious that  
21 it happens while Mr. Jones is down there at legal?

22 A. I do not.

23 Q. Because here when we look at the actual contact  
24 that was made for that date, for August 28th, it says  
25 that "He informed me the agency has made it difficult

1 for him and his family. He informed the worker that  
2 [REDACTED] being at the [REDACTED] would be better for the  
3 family so [REDACTED] can heal better. He states that at this  
4 point, he has consulted a lawyer and the family will no  
5 longer be cooperating with the agency," right? That's  
6 what it says, right?

7 A. Yes.

8 Q. Can you -- do you see anything in that entry  
9 that would've been -- would've needed to be updated or  
10 changed or for any reason, someone would've needed to  
11 log into that entry to make any adjustments to it?

12 A. I can't answer that question.

13 Q. I mean, because what we're saying in that  
14 statement is according to the official CPS version of  
15 the story, it's true, right?

16 A. What is "it's true"?

17 Q. This piece right here is what you believe is  
18 true about this case, right?

19 A. Correct.

20 Q. Okay. That part I've got highlighted that I  
21 just read out loud?

22 A. Correct.

23 Q. And so if that's true, and that was the entry  
24 that was in the IMPACT system the entire time, there  
25 would be no need to alter it, right?

1           A.    I can't answer that question.

2                   MR. DIEU:  I object.  Compound because it  
3 implies that there is some change.  We don't know.  She  
4 said she don't know.  Object to compound because it does  
5 implying that somebody change it.

6                   THE COURT:  I disagree.  That's overruled.  
7                   Please answer.

8           A.    Can you repeat the question?

9           Q.    (BY MR. SLATE)  Well, can you think of any  
10 reason why this particular entry would've needed to be  
11 accessed while Mr. Jones was down at legal getting his  
12 affidavit prepared, that this contact would need to be  
13 altered in any way or amended or accessed?

14          A.    No.

15          Q.    So would it stand -- would it stand to you to  
16 make sense that maybe this statement said something  
17 different before it was accessed?

18                   MR. DIEU:  Judge, I object.  Speculations.

19                   THE COURT:  The question, as I understand,  
20 is just would it make sense.

21                   So you may answer if it would make sense or  
22 not.

23          A.    What's the full question?

24          Q.    (BY MR. SLATE)  would it make sense to you that  
25 since this particular entry is what CPS is saying now

1 actually happened, would it make sense to you that  
2 before it was accessed while Mr. Jones was in legal, it  
3 said something different?

4 A. No.

5 Q. How come none of the other entries in this  
6 case -- scratch that.

7 I want to look at -- back at that event  
8 log. And notice that at the same time, or at least a  
9 couple of minutes after this particular entry was  
10 accessed on September 19th at 11:36 a.m., another entry  
11 for September 19th was accessed at 11:39 a.m., and it  
12 was an update of a contact that happened on August 20th.  
13 Now, we've talked about this August 20th contact several  
14 times today, right?

15 A. Right.

16 Q. And can you think of any reason why that  
17 contact would've needed to be accessed on the -- at the  
18 same time Mr. Jones is down at legal fixing up his  
19 affidavit?

20 A. No.

21 Q. Other than these two entries that happened  
22 while Mr. Jones is down at legal fixing his affidavit,  
23 we don't have any other contacts that are being done  
24 like this late of a date after the incident happened,  
25 right?

1           A.    On the page?

2           Q.    Well, so if -- just looking through the case  
3 event list, there is no other times where we see  
4 somebody coming in a month after the contact and adding  
5 or editing or changing the contact narrative, right?

6           A.    Correct.

7           Q.    The only two we see are the two that are for  
8 entries that really matter for CPS's version of this  
9 case; one, that the PCSP change didn't happen because of  
10 the potential medical danger to the child; and two,  
11 because CPS never knew that the kids were back with the  
12 [REDACTED]. That's what those two entries deal with,  
13 right?

14          A.    Incorrect.

15          Q.    Those are the two things of when they  
16 supposedly happened, right?

17          A.    What is "it happened"?

18          Q.    Supposedly, the [REDACTED] were told by CPS they  
19 weren't going to have the PCSP change on August 20th,  
20 right? That's when they were supposedly told?

21          A.    Correct.

22          Q.    And supposedly, Mr. [REDACTED] on August 28th,  
23 says, "I'm not going to talk to y'all and I'm not going  
24 to take my kids home," right?

25          A.    Incorrect.

1           Q.   Well, we know from Mr. Jones -- from Mr. Jones'  
2 sworn testimony here in court that Mr. Jones knew the  
3 entire time that the kids -- that Mr. [REDACTED] was going  
4 to take the kids home on the 28th?

5                   MR. DIEU:  Objection.  Calls for  
6 speculations.  Mr. Jones and the supervisor, calls for  
7 speculations.  She's the witness and the questions was  
8 about Mr. Jones at the time.

9                   THE COURT:  About his testimony here in  
10 court.

11                  MR. DIEU:  I don't know, Judge.  All I'm  
12 just saying is that the question is speculation.

13                  MR. SLATE:  I'll clear this up, Judge.

14                  THE COURT:  Okay.

15           Q.   (BY MR. SLATE)  Here in Exhibit No. 59,  
16 Mr. Jones' testimony in the emergency removal hearing,  
17 do you see here the question being:  "And how?"  
18 Mr. Jones replying:  "Dad informed me on August 24th he  
19 was not going to comply with the agency anymore, and as  
20 a result, they would be -- they would -- they would  
21 be taking -- they would be taking the children."  Do you  
22 see that?

23           A.   I do see that.

24           Q.   Had you ever known that that's what Mr. Jones  
25 testified to?

1           A.    No.

2           Q.    Well, he told you in a text message that we  
3 were going to try and get him with his emergency hearing  
4 testimony, right?

5           A.    Correct.

6           Q.    That's what he was talking about, right?

7           A.    I can't answer that question.

8           Q.    You didn't follow up with him?

9           A.    I did not.

10          Q.    So if we believe Mr. Jones when he was under  
11 oath with this court that he knew all along, and yet his  
12 IMPACT entry on August 28th says nothing about knowing  
13 those kids were coming home, and the IMPACT entry was  
14 accessed while he was down here making the affidavit,  
15 there is a chance Mr. Jones erased the part of that  
16 IMPACT entry where he says he knew Dad was taking the  
17 kids home, right?

18                   MR. DIEU:   Judge, I object.   This calls for  
19 speculation.

20                   THE COURT:   The question is just whether  
21 there is a chance.   I take it to mean whether it is  
22 possible.

23                   So you may answer that.

24           A.    I can't answer that question.

25           Q.    (BY MR. SLATE)   As an investigator, seeing all



1 of this different evidence, does it at least raise your  
2 curiosity?

3 A. No.

4 MR. SLATE: I pass the witness, Judge.

5 THE COURT: All right.

6 **CROSS-EXAMINATION**

7 **BY MS. PROFFITT:**

8 Q. Ma'am, does it concern you at all, or should  
9 this court be concerned at all that we are now almost a  
10 month and a half past the removal hearing and you're  
11 still not concerned about it?

12 A. What is "it"?

13 Q. About the fact that Mr. Jones lied?

14 A. I don't have any information that he lied.

15 Q. Well, you were in court at the show-cause  
16 hearing, were you not?

17 A. Correct.

18 Q. And you understand that taking the Fifth, or  
19 pleading the Fifth, there is an inference in a civil  
20 case that if he was to tell the truth, he would be  
21 committing perjury; are you aware of that?

22 MR. DIEU: Judge, I object to the line of  
23 questions. Everybody is entitled to take the Fifth.  
24 The question is -- I think it is implying that anybody  
25 who take the Fifth is lying. That is not what the Fifth



**App. H**





1 A P P E A R A N C E S

2 Mr. Dan-Phi Vu Nguyen  
HARRIS COUNTY ATTORNEY'S OFFICE  
3 SBOT NO. 24068268  
1019 Congress Street, Floor 17  
4 Houston, Texas 77002  
Phone: 713-274-5229  
5 **CO-ATTORNEY FOR THE PETITIONER, TDFPS**

6 Mr. Steven Dieu  
HARRIS COUNTY ATTORNEY'S OFFICE  
7 SBOT NO. 00787366  
1019 Congress Street, Floor 15  
8 Houston, Texas 77002  
Phone: 713-755-5101  
9 **CO-ATTORNEY FOR THE PETITIONER, TDFPS**

10 Mr. Dennis Slate  
SLATE & ASSOCIATES  
11 SBOT NO. 24029836  
112 East Forrest Lane  
12 Deer Park, Texas 77536  
Phone: 281-476-9447  
13 **ATTORNEY FOR RESPONDENT MOTHER,** [REDACTED] [REDACTED]

14 Ms. Stephanie Proffitt  
PROFFITT & ASSOCIATES  
15 SBOT NO. 24006775  
917 Franklin Street, Suite 100  
16 Houston, Texas 77002  
Phone: 713-224-3400  
17 **ATTORNEY FOR RESPONDENT FATHER,** [REDACTED] [REDACTED]

18

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20

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MS. PROFFITT: Your Honor, we do need to invoke the rule as to the program administrator, Renita Laury, who is here in court today. She wasn't here last time, but we want to invoke the rule as to her and ask for her to be removed from the courtroom.

MR. NGUYEN: Judge, does she need to be sworn in beforehand?

THE COURT: No, I can just put it on the record.

And you swear them in before they testify?

THE REPORTER: Right.

THE COURT: You understand that the rule has been invoked. You need to wait outside, and we'll come and get when it's time for you to testify. You're instructed to not learn of any of the testimony inside the courtroom. Thank you.

MR. SLATE: Judge, we would call Niesha Edwards, supervisor. I'm going to offer into evidence Respondent's Exhibits 63 and 64.

(Respondent's Exhibit Nos. 63 & 64 offered)

MR. NGUYEN: No objection, Judge.

MS. PROFFITT: No objection, Your Honor.

(Respondent Exhibit Nos. 63 & 64 admitted)

THE COURT: So admitted.



1                                   **NIESHA EDWARDS,**  
2   having been first duly sworn, testified as follows:

3                                   **DIRECT EXAMINATION**

4   **BY MR. SLATE:**

5           Q.   Ma'am, can you state your name?

6           A.   Niesha Edwards.

7           Q.   Ms. Edwards, what do you do for a living?

8           A.   I work for Child Protective Services.

9           Q.   How long have you worked there?

10          A.   Almost four years.

11          Q.   What capacity do you work in now with Child  
12   Protective Services?

13          A.   I'm a supervisor now.

14          Q.   A what?

15          A.   A supervisor.

16          Q.   How long have you been a supervisor?

17          A.   About five months.

18          Q.   So when the [REDACTED] case came to you in July of  
19   2018, you'd been the supervisor about a month, month and  
20   a half?

21          A.   About a month and a half, yes.

22          Q.   Prior to becoming -- you're a supervisor in  
23   investigations, right?

24          A.   Correct.

25          Q.   Prior to becoming a supervisor in

1 investigations, what were you doing?

2 A. Investigations. I was a caseworker.

3 Q. Prior to becoming a supervisor, had you ever  
4 worked with Lavar Jones before?

5 A. No.

6 Q. Had you ever worked with LaShonna Beaudoine?

7 A. Can you rephrase the question?

8 Q. Had you worked with LaShonna Beaudoine, the  
9 program director?

10 A. As an investigator, she was my program  
11 director, yes.

12 Q. When this case first came in, what was your job  
13 responsibility in regards to the [REDACTED] case?

14 A. I was the supervisor over the case.

15 Q. Did you handle any of the investigation  
16 activities?

17 A. I did.

18 Q. What parts?

19 A. As far as making decisions regarding how to  
20 move forward with the case; and also when Lavar Jones,  
21 the primary caseworker, went on vacation, I stepped in  
22 to ensure different tasks were completed on the case.

23 Q. And initially, there had been a safety plan put  
24 in place, right?

25 A. Correct.

1 Q. And was that your decision to put that in  
2 place?

3 A. At the start of the case, yes.

4 Q. And then eventually the safety plan was changed  
5 to a parental child safety placement with Mrs. [REDACTED]  
6 right?

7 A. Correct.

8 Q. And whose decision was it to change from a  
9 safety plan to a parental child safety placement?

10 A. It was mine.

11 Q. And part of the change between the safety plan  
12 and the parental child safety placement meant that  
13 Mrs. [REDACTED] could no longer stay overnight in the home  
14 with the children, right?

15 A. Correct.

16 Q. If it had stayed as a safety plan, Mrs. [REDACTED]  
17 could've stayed in the home, right?

18 A. Correct.

19 Q. Now, concerns were voiced to you about wanting  
20 or needing Mrs. [REDACTED] to stay in the home with [REDACTED]  
21 right?

22 A. At the start of the case?

23 Q. I'm just asking you: Were concerns voiced to  
24 you about having Mrs. [REDACTED] stay in the home?

25 A. Yes.

1 Q. And those concerns were regarding the ability  
2 for Mrs. [REDACTED] to breastfeed [REDACTED] right?

3 A. Yes.

4 Q. Now, [REDACTED] through this case, developed  
5 swelling in his head, right?

6 A. Yes.

7 Q. And that swelling had to have a procedure done,  
8 essentially putting a hole in his head to relieve the  
9 pressure, right?

10 A. Correct.

11 Q. You had a family team meeting with the [REDACTED]  
12 where they explained to you and Mr. Jones about that  
13 procedure and the issues for [REDACTED] right?

14 A. Yes.

15 Q. Now, at that meeting, the [REDACTED] discussed  
16 with you the importance of keeping [REDACTED] calm in order  
17 to not make his injury worse, right?

18 A. Correct.

19 Q. And that one of the things that calms [REDACTED]  
20 when he cries is breastfeeding, right?

21 A. Incorrect.

22 Q. That was never told to you?

23 A. Are you asking me would the breastfeeding stop  
24 him from crying, or did the parents say this is what  
25 would stop him from crying?

1 Q. I'm asking you: Is that what the parents told  
2 you?

3 A. Correct.

4 Q. They did tell you that?

5 A. Yes.

6 Q. They also informed you that there was a chance  
7 that they could avoid their son having to have a  
8 permanent shunt put in his head, right?

9 A. Correct.

10 Q. And that the way for them to avoid it was for  
11 them to make sure that [REDACTED] stayed calm and didn't get  
12 overly stressed or excited, right?

13 A. Correct.

14 Q. And one of the things that Ms. [REDACTED] talked  
15 about in that family team meeting was how every time  
16 [REDACTED] cried in the night, she had to run in there to the  
17 room to immediately try and stop him from crying, right?

18 A. I don't recall.

19 Q. It was starting to wear on Mrs. [REDACTED] not  
20 being able to sleep through the night because she was on  
21 edge trying to keep [REDACTED] calm?

22 A. Correct.

23 Q. Now, you had the authority to allow Mrs. [REDACTED]  
24 to stay overnight, right?

25 A. Correct.

1 Q. But you decided not to do that?

2 A. Correct.

3 Q. Even after being told of these potential  
4 problems that could be caused to [REDACTED] by not -- caused  
5 to [REDACTED] if he got too overly excited or stressed,  
6 right?

7 A. Incorrect.

8 Q. What's incorrect about that?

9 A. A doctor did not confirm that. This is the  
10 parents saying this.

11 Q. A doctor didn't confirm it?

12 A. Yes.

13 Q. So what doctor did you ask to verify the  
14 parents' statements?

15 A. The social worker.

16 Q. No, ma'am. I said what doctor did you confirm  
17 that with to verify the parents' statements?

18 A. Dr. Bachim.

19 Q. You talked to Dr. Bachim?

20 A. I have.

21 Q. No. I'm asking did you talk to Dr. Bachim  
22 about whether or not the child needed to stay calm to  
23 prevent his head injury from getting worse?

24 A. Can you restate the question?

25 Q. Are you saying that you talked to Dr. Bachim

1 about verifying the statements the parents made that  
2 this child needed to be kept calm so that his head  
3 injury didn't get worse, yes or no?

4 A. No.

5 Q. Okay. So what doctor did you talk to to verify  
6 the parents' statements?

7 A. No doctor.

8 Q. So you had the parents telling you that that  
9 was what needed to happen for the child, and you didn't  
10 make any action because a doctor didn't confirm it,  
11 right?

12 A. Correct.

13 Q. But you never asked a doctor to confirm it,  
14 right?

15 A. Correct.

16 Q. So how would a doctor have confirmed it?

17 A. Through the CAP team. That wasn't communicated  
18 to us.

19 Q. But did you ever ask the CAP team to  
20 communicate that to you?

21 A. Can you rephrase the question?

22 Q. Did you ever request the CAP team to evaluate  
23 that issue?

24 A. No.

25 Q. So on your own, you decided that what the

1 [REDACTED] were telling you wasn't valid, correct?

2 A. Incorrect.

3 Q. What's incorrect about that statement?

4 A. We didn't have information to confirm.

5 Q. What?

6 A. We didn't have information to confirm.

7 Q. Who's "we"?

8 A. The agency.

9 Q. Who else in the agency was making this decision  
10 whether Mrs. [REDACTED] could stay overnight with her child?

11 A. I was.

12 Q. Okay. So you didn't have the information?

13 A. Right.

14 Q. You didn't seek the information?

15 A. Correct.

16 Q. But part of what your title is investigator,  
17 right?

18 A. Right.

19 Q. You did nothing to investigate?

20 A. Incorrect.

21 MR. DIEU: Judge --

22 Q. (BY MR. SLATE) What did you do to investigate  
23 the issue of whether or not this child needed to stay  
24 calm to prevent his injuries from getting worse?

25 THE COURT: Hang on.



1                   When he's standing up to object, just hang  
2 on and I'll let you know.

3                   THE WITNESS:   Okay.

4                   MR. DIEU:   Judge, I object to relevancy  
5 regarding to the Rule 13 sanctions. I believe -- I'm  
6 not sure where Mr. Slate is heading regarding to all  
7 these questions because I don't think it's relevant to  
8 the issues of Rule 13 that is before the Court.

9                   MR. SLATE:   So, Judge, this case is all  
10 about whether or not CPS should have filed a suit  
11 removing the child and whether or not they took the  
12 proper procedures to prevent or eliminate the need for  
13 removal, and then anything that happened based upon  
14 their decisions. This is just a step in the methods of  
15 what CPS did when they could've been in a safety plan,  
16 and then decided to get to a PCSP, and then decided not  
17 to approve a change in PCSP when it could've just stayed  
18 as a safety plan, and then going along the lines when  
19 they actually go and file and what they base their  
20 reasons for filing for removal are.

21                  MR. DIEU:   Judge, I believe the crux of --

22                  THE REPORTER:   I'm sorry, the what?

23                  MR. DIEU:   The crux of the sanctions  
24 hearing is whether September the 18th and September  
25 the 19th is particular to the emergency. I believe

1 those things are relevant. But anything prior to that,  
2 two months or even a month, so far away, or anything  
3 after the September 19th are not relevant to the Rule 13  
4 that Mr. Slate is seeking.

5 THE COURT: All right. That's overruled.  
6 Please answer.

7 A. Can you repeat the question?

8 THE REPORTER: "What did you do to  
9 investigate the issue of whether or not this child  
10 needed to stay calm to prevent his injuries from getting  
11 worse?"

12 A. I spoke to the social worker, a part of the CAP  
13 team.

14 Q. (BY MR. SLATE) When did you speak to the  
15 social worker as a part of the CAP team?

16 A. I spoke to the social worker on July 24th and  
17 also July 25th.

18 Q. Okay. So when you had the meeting with the  
19 family at the family team meeting on August 14th and you  
20 were given this information, you're saying you didn't  
21 speak to anyone after that?

22 A. I spoke to the social worker also after that.

23 Q. When?

24 A. I don't remember the date.

25 Q. Well, that would be in your contact narrative,

1 right?

2 A. Speaking to her? At that point, no.

3 Q. Why?

4 A. Because at that point, the primary worker was  
5 back.

6 Q. You're not required to document contacts made  
7 in the case?

8 A. Yes, sir, I am.

9 Q. So you would've been making a contact with part  
10 of the hospital, right?

11 A. Correct.

12 Q. And are you saying you made contact with the  
13 social worker, asked her questions about the health of  
14 the [REDACTED] child, but you didn't note that anywhere in  
15 the file?

16 A. Correct.

17 Q. So you willingly violated the CPS policies on  
18 documentation?

19 A. Not willingly.

20 Q. How was it not willingly? You accidentally  
21 violated them?

22 A. Incorrect.

23 Q. How was it that you violated them?

24 A. I didn't.

25 Q. Well, the policies say you're supposed to

1 document all contacts, right?

2 A. Right.

3 Q. Okay. So did you document the contact with the  
4 social worker?

5 A. It would've been --

6 Q. Yes or no?

7 A. No.

8 Q. Okay. So if you didn't document it, how did  
9 you -- but you agree that's a violation of policy,  
10 right?

11 A. Incorrect.

12 Q. How is it not a violation of policy?

13 A. Because the primary worker was now back to  
14 work, so that information would've been communicated to  
15 the primary worker regarding the contact with the social  
16 worker.

17 Q. So if you have the contact, you don't have to  
18 document it?

19 A. It can be communicated to the primary worker to  
20 follow up with the social worker.

21 Q. Did the -- did your worker document that  
22 contact?

23 A. I'm not sure.

24 Q. Well, you're the supervisor, right?

25 A. Correct.

1 Q. Did you supervise to see whether or not that  
2 contact was ever documented?

3 A. I don't recall.

4 Q. Well, was that a failure on your part to make  
5 sure that this contact that you had with a social worker  
6 about the [REDACTED] child's health wasn't documented?

7 A. Can you rephrase?

8 Q. Was that a failure on your part as a supervisor  
9 to make sure that that contact you're saying you had was  
10 documented in the file?

11 A. Yes.

12 Q. And so when the family at the family team  
13 meeting asks you about allowing Mrs. [REDACTED] to stay with  
14 the child overnight to breastfeed, what was your  
15 response?

16 A. The family did not ask for Mrs. [REDACTED] to stay  
17 overnight during the family team meeting.

18 Q. You know that that meeting was recorded, right?

19 A. Correct.

20 Q. You know there is a transcript of that meeting,  
21 right?

22 A. Correct.

23 Q. You're saying that there was never a request  
24 made to you from Mrs. [REDACTED] to be able to stay and  
25 breastfeed her child overnight?

1 A. I don't recall.

2 Q. Just a second ago, you said it wasn't. Now  
3 you're saying you don't remember?

4 A. I don't recall.

5 Q. What?

6 A. I don't recall.

7 Q. So it might have actually been done?

8 A. It could have.

9 Q. Why did you just tell us a minute ago it didn't  
10 happen?

11 A. I don't recall.

12 Q. You don't recall why you didn't tell us?

13 A. I don't recall.

14 Q. You don't recall what?

15 A. If they asked for Mrs. [REDACTED] to stay over, but  
16 rather the child to return home.

17 Q. Okay. So do you recall having any response to  
18 that question at all?

19 A. Regarding Mom breastfeeding?

20 Q. Yes.

21 A. Yes.

22 Q. What was your response?

23 A. I don't recall.

24 Q. Well, ma'am, you actually said that  
25 breastfeeding is just an inconvenience, right?

1           A.    Can you rephrase the question?

2                   THE COURT:   I think the question is:

3   "Ma'am, you actually said that breastfeeding is just an  
4   inconvenience?"

5           A.    I don't recall wording it that way, no.

6           Q.    (BY MR. SLATE)   I'm going to let you listen to  
7   what's been admitted as Exhibit No. 38.   I'm going to  
8   start it at 19:28.

9                   (Respondent's Exhibit No. 38 published)

10          Q.    (BY MR. SLATE)   So you went through and said  
11   that that would just be an inconvenience, right?

12          A.    To the family.

13          Q.    To the who?

14          A.    To the family; to Mom.   An inconvenience for  
15   Mom.

16          Q.    Ma'am, you actually said, "No.   For the family.  
17   For the family.   All those things are an inconvenience  
18   as far as for the baby and Mom and interrupting their  
19   bonding period.   It's just an inconvenience," right?

20          A.    Incorrect.   That's not the meaning there.

21          Q.    That's not what you just said?

22                   THE COURT:   I didn't hear what you said.

23          A.    That that wasn't the meaning there.

24          Q.    (BY MR. SLATE)   There wasn't what?

25          A.    That wasn't the meaning.

1 Q. You say "meaning"?

2 A. The way you're interpreting that, that wasn't  
3 the meaning.

4 Q. So we don't just read your words and interpret  
5 them the way you said them?

6 A. Not sometimes, no.

7 Q. Not sometimes?

8 A. Yeah, not sometimes.

9 Q. So even though you said the words, you're  
10 telling us you didn't mean it?

11 A. No. I'm saying it was an inconvenience to Mom.

12 Q. So you never were going to consider allowing  
13 the child to have the mother in the home which may be  
14 able to prevent him from having further injuries to his  
15 head, right?

16 A. Incorrect.

17 Q. When were you going to consider that?

18 A. When we gathered enough information to say that  
19 the child would be safe in Mom's care.

20 Q. And when were you going to do that?

21 A. As the information came in. At that point, we  
22 hadn't received anything.

23 Q. Today, do you have that information?

24 A. Not to say that the baby would be safe in Mom's  
25 care, no.



1           Q.    So if it weren't for y'all filing this lawsuit  
2 and coming in and having the show-cause and the judge  
3 denying y'all, you would still be sitting here saying  
4 Mom can't be around the baby overnight because you don't  
5 have enough information?

6                   MR. DIEU:  Objections.  Call for  
7 speculation, Judge.

8                   THE COURT:  That's overruled.

9                   Please answer.

10          A.    Can you re-ask the question?

11          Q.    (BY MR. SLATE)  But for the fact that y'all  
12 came and filed for custody and the judge denied your  
13 request, we'd be sitting here today, on October 29th,  
14 and this mother wouldn't be allowed to have overnights  
15 with her child because you don't have enough  
16 information?

17          A.    Well, the information we have suggests abuse.

18          Q.    And that was from who?

19          A.    Dr. Bachim.

20          Q.    Okay.  So even though Dr. Sarpong came in and  
21 said he didn't have any information that Mom abused the  
22 child?

23          A.    Dr. Sarpong was not the doctor that wrote the  
24 physician's statement.  Dr. Bachim was, in fact --

25          Q.    Then why didn't you call --

1                   THE REPORTER: Hang on. "Dr. Sarpong was  
2 not the -- "

3           A. -- doctor that wrote the physician's statement.  
4 Dr. Bachim was, in fact, the doctor that wrote the  
5 physician's statement.

6           Q. (BY MR. SLATE) Well, Dr. Sarpong is actually  
7 the supervisor for the CAP team, isn't he?

8           A. I don't have that answer.

9           Q. And y'all called Dr. Sarpong as your witness,  
10 right?

11          A. I didn't call Dr. Sarpong.

12          Q. Did you tell anyone to call Dr. Bachim?

13          A. The physician statement was provided with  
14 Dr. Bachim's signature.

15          Q. It certainly wasn't filed with the case, right?

16          A. No, it was not.

17          Q. Okay. In fact, what was filed with the case  
18 was a physician's statement signed by Dr. Sarpong,  
19 right?

20          A. Correct.

21          Q. So back to my question: We would be still  
22 sitting here today, if it was up to you, with no other  
23 answers that would allow this mother to be with her  
24 child and breastfeed him, right?

25          A. Incorrect.

1 Q. Why is that incorrect?

2 A. Because it's not up to me. It's up to the  
3 information provided to the agency.

4 Q. It's not up to you to investigate?

5 A. The information provided to the agency?  
6 Correct. Yes.

7 Q. Okay. Well, again, what were you doing in your  
8 investigation to find out whether or not that  
9 information was good or true or correct?

10 A. We haven't received anything that would  
11 contradict abuse.

12 Q. What was the abuse based upon?

13 A. The two skull fractures and the bleeding behind  
14 the child's eyes, the bleeding in the child's head as a  
15 result of the skull fractures.

16 Q. Okay. So bleeding behind eyes.

17 A. Uh-huh.

18 Q. Two skull fractures?

19 A. Correct. On opposite sides of the head.

20 Q. On opposite sides of the head?

21 A. On the front and back of the head.

22 Q. So you believe one was on the front -- when I  
23 point to the front, I point to my forehead -- and one  
24 was on the back. I point to the back of my head when I  
25 say "back." Is that what you believe?

1       A.    I believe they were on different spaces on the  
2 head.

3       Q.    Just a second ago, you said opposite sides of  
4 the head. Are you sticking by that testimony or no?

5       A.    I'm saying the fractures were not on the same  
6 spot of the head.

7       Q.    Okay. But not on the opposite sides?

8       A.    Not in the same spot.

9       Q.    Okay. Now, you said two skull fractures,  
10 bleeding behind both eyes, correct?

11       A.    Bleeding behind the eyes is what I said.

12       Q.    You said both eyes, right?

13       A.    I didn't say both eyes. I said bleeding behind  
14 the eyes.

15       Q.    Did you say "eyes" with an "s" or just eye?

16       A.    Bleeding behind the eyes.

17       Q.    Meaning two?

18       A.    Yes.

19       Q.    Okay. Then what'd you say?

20       A.    Bleeding in his head.

21       Q.    Bleeding in his head?

22       A.    Uh-huh. Old and new bleeding.

23       Q.    What?

24       A.    Old and new bleeding.

25       Q.    Old and new bleeding?

1 A. Yes.

2 Q. Okay. And what else?

3 A. What else, as in?

4 Q. What else showed you that this child was  
5 abused?

6 A. The physician statement provided to the agency  
7 saying that the explanation was not consistent with the  
8 type of injuries the child had and it couldn't have  
9 occurred at one fall.

10 Q. Okay. Could not have occurred one fall?

11 A. Yes.

12 Q. Were they definitive in their explanation that  
13 that absolutely, positively couldn't occur in one fall?

14 A. Yes.

15 Q. You know this because of your investigation?

16 A. Correct.

17 Q. Okay. What else?

18 A. The injuries couldn't have resulted from  
19 childbirth.

20 Q. You said could not result from childbirth?

21 A. Correct.

22 Q. Okay. What else? What else, ma'am?

23 A. Can you call back everything that I said?

24 Q. No. Just asking you what else made you know  
25 that this was abuse?

1           A.    What was reported to the agency.

2           Q.    Okay.  So the first thing we have is your  
3 statement that the child was bleeding in both eyes,  
4 right?  That's the first thing you said, right?

5           A.    Yes.

6           Q.    Okay.  And you base that upon what?

7           A.    The reports provided to the agency.

8           Q.    By who?

9           A.    By the CAP team.

10          Q.    Okay.  And let me show you what's been part of  
11 Exhibit No. 55, which is a copy of your file, and  
12 specifically page 365.

13          A.    Okay.

14          Q.    Tell me if you see that on the screen?

15          A.    I do.

16          Q.    Okay.  So this is signed by Dr. Angela Bachim,  
17 right?

18          A.    Uh-huh.

19          Q.    Is that a yes?

20          A.    Well, I'm not sure.

21          Q.    Do you see the name right here on the top?  
22 I'll use a red laser right here.  You see that?

23          A.    Yes, I do.

24          Q.    All right.  That's who you're saying gave you  
25 this notion of abuse, right?

1           A.    Yes.

2           Q.    Okay.  So here, when we're looking at the eyes  
3 and when she talks about the eyes, we'll look right here  
4 in the paragraph.

5           A.    Okay.

6           Q.    "Discussed ophthalmology findings with parents.  
7 Specifically discussed the diffused is not fully out to  
8 the periphery.  RH" -- I'm going to give you that that's  
9 short for 'retinal hemorrhage' -- "in the left eye are  
10 out of proportion to what would be excepted with a  
11 simple, short fall.  Discussed that this is in context  
12 of retinal hemorrhage healing every day since the event  
13 that caused injuries."  Where does it say both eyes?

14          A.    It doesn't.

15          Q.    But, yet, you're up here telling us you're  
16 saying you know it's abuse because there is bleeding in  
17 both eyes?

18          A.    Incorrect.  That's not what I said.

19          Q.    What did you say?

20          A.    I said abuse was reported to the agency based  
21 upon the injuries.

22          Q.    Ma'am, do you think every report that comes  
23 into the agency is 100 percent true and valid?

24          A.    No.

25          Q.    Y'all's job is to do what to reports?

1 A. Investigate.

2 Q. Okay. So relying on a report isn't very good  
3 investigation, right?

4 A. Correct.

5 Q. Okay. So when you do your investigating and we  
6 look over here at the evidence, the evidence says  
7 nothing about there being two eyes, right, with retinal  
8 hemorrhaging?

9 A. Correct.

10 Q. Okay. So now we have bleeding in one eye. We  
11 have two skull fractures which are the next thing,  
12 right?

13 A. Correct.

14 Q. And two skull fractures, we know one hospital  
15 absolutely, positively says the one on the top left-hand  
16 side matches with what Ms. [REDACTED] said, right?

17 A. Correct.

18 Q. Okay. Now, the second one is the smaller one  
19 located on the back of the head, right?

20 A. Correct.

21 Q. Now, that one, Mrs. [REDACTED] didn't have any  
22 explanation for, correct?

23 A. Correct.

24 Q. Now, the doctor didn't say that that alone  
25 means the child was abused, right?



1           A.    Correct.

2           Q.    The doctor said that the parent just doesn't  
3 have an explanation. In fact, you heard Dr. Sarpong say  
4 if Mom had just given us any explanation -- it could've  
5 been a lie -- that they wouldn't have had a concern  
6 then, right?

7           A.    Correct.

8           Q.    So we have a second fracture. What did CPS do  
9 to try and make sure whether or not anyone else had  
10 access to this child that could've been around when the  
11 injury occurred?

12          A.    According to Mom, no one was around. She  
13 primarily cares for the children.

14          Q.    You're saying your investigation showed that no  
15 one else cared for the children?

16          A.    According to Mom.

17          Q.    I'm just asking you, ma'am, is that what your  
18 investigation showed?

19                   MR. DIEU: Judge, I object. Asked and  
20 answered.

21                   THE COURT: I think he's just clarifying.  
22 You may answer. Please answer.

23                   THE WITNESS: Is that a yes or no or?

24                   THE COURT: The question is -- he's asking,  
25 "Ma'am, what is your -- what did your investigation

1 show?"

2 A. The investigation shows that Mom was the  
3 primary caregiver to the child.

4 Q. (BY MR. SLATE) Well, ma'am, I didn't ask you  
5 if she was primary; I asked you if anyone else watched  
6 that child. What did your investigation show about  
7 that?

8 A. I don't recall.

9 Q. What we have here, if we look on the screen,  
10 page 793 of Exhibit 55, we've got some handwritten notes  
11 from the investigator, right?

12 A. Okay.

13 Q. Is that a yes?

14 A. Yes.

15 Q. You recognize that handwriting by anyone?

16 A. I don't.

17 Q. That's Mr. Jones' handwriting, isn't it?

18 A. I can't -- I don't know.

19 Q. It's part of your file, right?

20 A. I don't recognize this.

21 Q. You see down here where it says No. 2, "The  
22 cousin daily"? You see that?

23 A. In the yellow? Yes.

24 Q. You see the cousin daily -- had contact daily?

25 A. Yes.

1           Q.   And then when we look here, look at this note,  
2 "second cousin takes care of OV twice a week." What's  
3 "OV" stand for?

4           A.   Oldest victim.

5           Q.   Okay. So they take care -- this second cousin,  
6 did you go talk to this second cousin?

7           A.   I don't know who this is referring to.

8           Q.   I know, but did you talk to them? Did you  
9 investigate?

10          A.   I can't investigate what I don't know. I don't  
11 know.

12          Q.   Did you ask any questions about it?

13          A.   About something I don't know?

14          Q.   Well, I'm saying that there is a note in your  
15 file, ma'am.

16          A.   Not my file. I don't hold the file.

17          Q.   You're the supervisor?

18          A.   But I don't hold the files.

19          Q.   So -- but you don't have access to the files as  
20 the supervisor?

21          A.   Yes.

22          Q.   Okay. Do you supervise the person who does  
23 hold the file?

24          A.   I do.

25          Q.   All right. Is it your job to checkup with them

1 on things, ask questions, investigate?

2 A. Yes.

3 Q. Verify?

4 A. Yes.

5 Q. You're the one who's more experienced, right?

6 A. Yes.

7 Q. So when -- we heard from your program director  
8 today that it's you who makes the recommendation for  
9 removal, right?

10 A. Correct.

11 Q. And so she just approves your recommendation or  
12 disapproves your recommendation for removal, right?

13 A. Correct.

14 Q. So you have to know all of the facts of the  
15 case before you go off and recommend that people have  
16 their children taken away, right?

17 A. Correct.

18 Q. And so why did you not know anything about the  
19 fact that there was a cousin who had been babysitting  
20 these kids twice a week for five hours a day?

21 A. I can't answer that question.

22 Q. Because you didn't check, right? That's the  
23 answer?

24 A. Incorrect.

25 Q. What did you do to check, ma'am?

1 A. Check a cousin that I don't know about?

2 Q. That you have notes in your file --

3 MR. DIEU: Judge, Objection. Asked and  
4 answered. She keep answering that question, that she  
5 didn't know. It's not her notes.

6 THE COURT: That's overruled.

7 I mean, the question is: "What all did you  
8 do to check?"

9 Is that correct, Mr. Slate?

10 MR. SLATE: Yes.

11 THE COURT: You can answer.

12 A. Can you rephrase the question?

13 Q. (BY MR. SLATE) I'm going to show you here  
14 page 812 of Exhibit 903?

15 A. Okay.

16 Q. And specifically bring this to your attention.  
17 This right here is called what? What is this? An  
18 IMPACT note, right?

19 A. Correct.

20 Q. It's an IMPACT note made by who?

21 A. Myself.

22 Q. Your supervisor is Edwards, right?

23 A. Yes.

24 Q. Who is [REDACTED]?

25 A. [REDACTED] is a cousin. Paternal cousin.

1           Q.    She's the cousin that you just said you don't  
2 know anything about, right?

3           A.    I didn't know what cousin was referred to in  
4 that note. I didn't write that note.

5           Q.    Well, you just heard a cousin was watching the  
6 kids twice a week, right? Right, ma'am? You just heard  
7 that on the note; cousin is watching the kids twice a  
8 week, right?

9           A.    Correct.

10          Q.    Then here, you've got in your note: "According  
11 to Ms. [REDACTED], she's family and she does see the  
12 children twice a week."

13          A.    Correct.

14          Q.    So as you're investigating, this would seem  
15 like it's a clue, right?

16          A.    Incorrect.

17          Q.    That doesn't seem like a clue to you?

18                   MR. DIEU: Objection. Calls for  
19 speculation, Judge.

20                   THE COURT: That's overruled.

21          Q.    (BY MR. SLATE) We have a note from you talking  
22 to a cousin who says -- and from your notes, "I see the  
23 kids twice a week." And we have a handwritten note from  
24 Mr. Jones saying, "Second cousin watches kids two times  
25 a week for five hours a day." You're saying that

1 doesn't look like a clue?

2 A. Well, then she said sees the children twice a  
3 week. The note said watches the children twice a week.

4 Q. And so, as the investigator, the plot thickens  
5 and it's time to ask another question, right?

6 A. Yes.

7 Q. "Ma'am, do you watch or do you just look at the  
8 children twice a week?" That would've been a good  
9 question, right?

10 A. I can't answer that.

11 Q. It might have solved the mystery?

12 A. Not really, no.

13 Q. It might have given you a person to look at and  
14 go, "Ma'am, did this child ever fall down while he was  
15 in your care?"

16 MR. DIEU: Judge, again, I object for  
17 speculation. The wisdom of hindsight is not what we are  
18 here for, Judge. What happened -- Mr. Slate keep asking  
19 what could've happened; what should she have done.  
20 That's speculating.

21 MR. SLATE: Judge, the reasonable efforts  
22 that the agency made to prevent or eliminate the need  
23 for removal are absolutely on trial today, and the fact  
24 that there is documentation in their file that they  
25 talked with a person that watched this child -- these

1 children two times a week for five hours at a time. And  
2 they are sitting up here saying no one else had access,  
3 therefore Mom had to have done it, therefore Mom  
4 couldn't stay overnight, therefore the kids weren't safe  
5 with Mom. This is all relevant.

6 MR. DIEU: It is not relevant, Judge. It  
7 is relevant if Mr. Slate present that at the closing,  
8 but we are to the witness what have happened at that  
9 time. Anything that to ask a question in a  
10 hypothetical, in a speculative, like, what should you  
11 have done, I believe is completely irrelevant regarding  
12 with the Rule 13. Mr. Slate may be able -- and I'm not  
13 opposed to that in the closing, that he may project that  
14 somebody should've done a little bit more. That's a  
15 valid argument. But it is not at the testimony of the  
16 witness.

17 THE COURT: But how can he make the  
18 argument if you're limited in argument to what's already  
19 in evidence? In other words, you can object to someone  
20 going into something in argument if what they are  
21 arguing was never supported by the facts of the case.

22 MR. DIEU: Because the witness are only  
23 testifying to what have actually happened. To ask her,  
24 to say what should you have done or what could you have  
25 done more, I believe it's irrelevant for the very



1 specific Rule 13. Because now we are going into what  
2 was a hindsight, the wisdom of hindsight. Of course, if  
3 we ever think we could've done a lot of things  
4 differently, including the mother needs pay more  
5 attention to make sure the child won't fall. These are  
6 things that are a hypothetical and speculative on  
7 something that could've happened or we should have done  
8 something.

9 MS. PROFFITT: But, Your Honor, they did  
10 have this information, and this woman made the decision  
11 to have Mr. Jones come down and seek removal of the kids  
12 even though she had information that there were other  
13 people who had been in contact with the children.

14 THE COURT: Even if we're just sticking to  
15 what's in the four corners of the affidavit, if it's  
16 just like every other affidavit I've read, it has some  
17 sort of language to the effect of all reasonable efforts  
18 were made to avoid removal; there is no time consistent  
19 with notice and hearing, that kind of basic language. I  
20 don't see how this wouldn't go exactly to that; what the  
21 agency knew about alternatives to removal because that  
22 is a serious question. I mean, let's say that the  
23 agency seriously felt that the children were in danger  
24 with the parents, which at least one person already  
25 testified they haven't, why would they go to foster care

1 instead of with other relatives?

2 MR. DIEU: I agree in a general picture,  
3 Judge. What I'm asking for the parent's attorney is to  
4 focus on the Rule 13 that they are seeking, and it is a  
5 very limited scope. The issues, including the things  
6 that the supervisor testified, are way, way far beyond,  
7 but Mr. Slate argument and the Court agree that these  
8 are the things that relevant and lead to the emergency;  
9 however, there are something that there is no  
10 connection. It is so remote that there is nothing that  
11 is really relevant to this September the 18th. And so  
12 far, we have not seen anything at all. I mean, if we  
13 keep going this way, we can go ahead and have a final  
14 trial on the issues rather than a Rule 13 sanctions,  
15 which is very limited in the scope.

16 THE COURT: Right. My point is: If  
17 Rule 13 says someone didn't tell the truth under oath  
18 and we have an affidavit that says something to the  
19 effect of reasonable efforts were made, how would this  
20 not be relevant to what they knew, what alternatives  
21 there were to removal, what they could've done as  
22 opposed to that? I'm not saying that I agree with them,  
23 but I don't see how it's anything but relevant at this  
24 point, so that's overruled.

25 Please answer.

1           A.    Can you restate the question?

2                   MR. SLATE:   Ms. Massey, can you help?

3                   THE REPORTER:   "It might have given you a  
4 person to look at and go, "Ma'am, did this child ever  
5 fall down while he was in your care?"

6           Q.    (BY MR. SLATE)   Right, ma'am?   To come down to  
7 court and request removal, you've got to believe that  
8 Ms. [REDACTED] and/or Mr. [REDACTED] is the cause of the  
9 injuries, right?

10          A.    Correct.

11          Q.    Okay.   And that there can't be any other  
12 possibility as to causing the injuries, right?

13          A.    Correct.

14          Q.    So you -- as an investigator, your job is to  
15 eliminate other potential people from the circle of who  
16 could've injured the child, right?

17          A.    Correct.

18          Q.    But you didn't do that with this case, correct?

19          A.    Incorrect.

20          Q.    Okay.   What did you do to eliminate the second  
21 cousin?

22          A.    According to Mom, the child had no other  
23 injury, had never fell down at any other time.

24          Q.    How would Mom know if someone else was  
25 watching?

1           A.    Well, the child was five months.  If the child  
2 hurt themselves, why wouldn't Mom know?

3           Q.    You're saying if Mom has someone else watching  
4 the child, Mom, just because of, like, a Mom kind of  
5 radar thing, would know that their child fell down while  
6 they are being watched by somebody else?

7           A.    No.  I'm saying Mom didn't communicate any  
8 other fall.

9           Q.    How would Mom know about it, ma'am?

10          A.    This is the person she designated to watch her  
11 child.

12          Q.    Right.

13          A.    Why wouldn't she know?

14          Q.    We're asking you.  You're the investigator.

15          A.    Why wouldn't she know if the child fell down?

16          Q.    Wait a second.  You're telling us your  
17 philosophy on investigating cases is the parents know  
18 everything that's happened to their kids whether they  
19 were there or not.  Is that really how you investigate  
20 cases?

21          A.    No.

22          Q.    Okay.  So what did they teach you in  
23 investigator school about talking to potential  
24 witnesses?  Do you just talk to one witness and say,  
25 "Well, what do those other people know," or do you go to

1 those other people and ask them, "What do you know?

2 A. You talk to other people.

3 Q. So did you go and talk to [REDACTED] and ask  
4 her about anything she knew or saw or observed?

5 A. I did talk to [REDACTED].

6 Q. About anything she knew or saw or observed?

7 A. She didn't report any injuries to this child.

8 Q. What did you ask her?

9 A. If she had any concerns for this child being  
10 abused.

11 Q. Did you ask her if she every noticed any fall  
12 downs, crying, anything; yes or no, ma'am?

13 A. No.

14 Q. Okay. Now, we also know this child stayed --  
15 went to a Mother's Day Out at church twice a week,  
16 right?

17 A. Incorrect.

18 Q. Well, let's take a look at your file.  
19 Exhibit 55, page 820. First, I'll go back to 819. What  
20 is this that I'm looking at right now on page 819 of  
21 Exhibit 55?

22 A. Family team meeting.

23 Q. Okay. And you happened to attend the family  
24 team meeting, right?

25 A. Correct.

1           Q.    Okay.  And here, if we look at the next page,  
2 right here in the middle of this part that says "Family  
3 Strengths and Support" -- I want to draw your attention.  
4 I'll use my little laser over here to this sentence  
5 that's highlighted in yellow.  Please read that out  
6 loud.

7           A.    "Mother uses Mother's Day Out at church at  
8 least twice a week."

9           Q.    Okay.  So why did you just say there was no  
10 evidence that these children went to Mother's Day Out?

11          A.    Because at the time the child received these  
12 injuries, he was not attending Mother's Day Out.

13          Q.    How do you know that?

14          A.    Because according to the parents, he was just  
15 now going to be starting Mother's Day Out.

16          Q.    Where does it say that in any of your notes or  
17 file or record?

18          A.    It doesn't say that in this passage.

19                   THE REPORTER:  I'm sorry, "It doesn't say  
20 that -- "

21                   THE WITNESS:  In this passage.

22          Q.    (BY MR. SLATE)  Does it say it anywhere in the  
23 903 pages worth of records that you gave us?

24          A.    I don't recall.

25          Q.    But you want to base your testimony on

1 something that you don't remember?

2 A. About the notes?

3 Q. About whether or not it says anywhere in your  
4 documented file that the mother didn't use Mother's Day  
5 Out prior to the injury?

6 A. Can you restate the question?

7 Q. You want to get up here and testify that the  
8 mother did not use Mother's Day Out prior to the  
9 injuries is what you're saying, right?

10 A. Correct.

11 Q. Okay. Where in your file does it say that?

12 A. I can't answer that question.

13 Q. Okay. But how could you possibly say that  
14 it -- the child didn't, but you don't know anywhere in  
15 the file that that's documented?

16 A. Because Mom was seeking an approval from the  
17 agency for the child to attend Mother's Day Out.

18 Q. Because y'all had a PCSP in place, right?

19 A. Correct.

20 Q. I mean, that next sentence on there says: "The  
21 children were very sociable and interact with other  
22 children at church," and you're saying the child hadn't  
23 gone to Mother's Day Out before?

24 A. Correct.

25 Q. Because this was done in August?

1           A.    Right.

2           Q.    Did you ever go to the church and ask anyone  
3 there if the [REDACTED] children went there and had any  
4 reports of [REDACTED] being there?

5           A.    No.

6           Q.    Why?

7           A.    Why didn't I go to the church?

8           Q.    Right.

9           A.    Because supervisors don't go in the field.

10          Q.    Did you direct your investigator who does go in  
11 the field to do so?

12          A.    I believe he spoke to people at the church.

13                   MR. SLATE:  Objection.  Nonresponsive.

14                   THE COURT:  Yeah, I think question was,  
15 "Did you direct him to?"

16          A.    I don't recall.

17          Q.    (BY MR. SLATE)  You might have?

18                   MR. DIEU:  Judge, she already answered.  
19 Objections.  Asked and answered.

20                   THE COURT:  So did you answer, "You might  
21 have"?  I think question was -- there was one question  
22 that I asked, which was essentially restating his  
23 question, which was -- yeah, I think the question was,  
24 "Did you direct him to?"  And you said, "I don't  
25 recall."  And I think Mr. Slate's question was, "You



1 might have?" And that's where I don't think we have an  
2 answer.

3 THE WITNESS: So "you might have" is the  
4 question?

5 THE COURT: Right. "You might have?"

6 A. I don't recall.

7 Q. (BY MR. SLATE) Well, did you recall it on  
8 September 18th, 2018, when you authorized removal of the  
9 children?

10 THE WITNESS: Is he asking me if I recall  
11 to tell him to go to the church?

12 THE COURT: When you -- Mr. Slate, when you  
13 say, "Well, did you recall it on September 18th," what  
14 is "it"?

15 MR. SLATE: I'm referring to whether or not  
16 she'd ever told her investigator to go to the church and  
17 interview people.

18 MR. DIEU: And, Judge, that answer is  
19 already asked and answered. She didn't recall.  
20 Mr. Slate keep asking the same question a different form  
21 just to want to get an answer that she already answered  
22 she did not recall. And I object to asked and answered.

23 THE COURT: All right. I'll let you  
24 answer. It's a slightly different question. "Did you  
25 recall it on September 18th?"

1           A.    I don't recall.

2           Q.    (BY MR. SLATE) Now, you had a staffing with  
3 your program director on this case in July, around the  
4 19th, right?

5           A.    Correct.

6           Q.    And in that -- first off, as of that time, as  
7 of July 19th, had you gone and done any personal  
8 investigation into the case? Had you conducted any of  
9 the investigation up to July 19th?

10          A.    No.

11          Q.    What was the information -- where did the  
12 information come from that you and your supervisor were  
13 using in that staffing?

14          A.    Based upon the intake report.

15          Q.    What?

16          A.    Based upon intake report.

17          Q.    Now, here is a note from -- when we look over  
18 here at the removal affidavit, you reviewed this removal  
19 affidavit, right?

20          A.    Correct.

21          Q.    Exhibit 1. So Mr. Jones starts typing the  
22 affidavit and then sends it to you to review, right?

23          A.    Correct.

24          Q.    And you have a text message exchange with  
25 Mr. Jones that shows that you've approved of the

1 contents of the affidavit, right?

2 A. Correct.

3 Q. Now, in that -- I'm going to show you what's  
4 marked as Exhibit No. 60. These are your texts with  
5 Mr. Jones, right?

6 A. Uh-huh.

7 Q. Is that a yes?

8 A. Yes.

9 Q. And here, if we look over in this area on  
10 Tuesday, September 18th, Mr. Jones is asking you, "Is  
11 the affidavit for just [REDACTED] and/or [REDACTED] also,"  
12 right?

13 A. Correct.

14 Q. Okay. Now, tell me about September 18th. How  
15 did the [REDACTED] case come to your attention on  
16 September 18th?

17 A. Can you rephrase the question?

18 Q. What was it that brought the [REDACTED] case to  
19 your attention on September 18th?

20 A. A staffing.

21 Q. A staffing held where?

22 A. At the DFPS office.

23 Q. At your office? At Mr. Jones' office? Where?

24 A. At my office.

25 Q. And what time was that staffing held?

1 A. I don't recall. It was in the morning.

2 Q. It was in the morning?

3 A. Yes.

4 Q. Okay. And what was discussed regarding the  
5 [REDACTED] kids?

6 A. It was discussed engaging the family, seeing  
7 the children, and it was brought to my attention that  
8 [REDACTED] and [REDACTED] were now back in Mom and Dad's care.

9 Q. It was brought to your attention that [REDACTED] and  
10 [REDACTED] were back in the mother's care on September  
11 18th?

12 A. Correct.

13 Q. You didn't know anything about that prior to  
14 September 18th?

15 A. No, I did not.

16 Q. So -- now, September 18th would've been a day  
17 that the agency needed to apply for an extension of the  
18 investigation period, right?

19 A. I don't recall.

20 Q. If we look here in the event contacts,  
21 September 18th -- I'm going to show you this Exhibit 55,  
22 page 13. We see in here an extension request is put in  
23 on September 18th, right?

24 A. Okay. Yes.

25 Q. Who's the approval for an extension request on

1 an investigation?

2 A. I am.

3 Q. So we know that that's the day that it's got to  
4 be talked about and staffed with you or someone higher  
5 to make sure the investigation can keep staying open,  
6 right?

7 A. Incorrect.

8 Q. Or else you show up on the 31-day list, right?

9 A. Correct.

10 Q. Okay. You don't want to show up on the 31-day  
11 list?

12 A. Incorrect.

13 Q. Because that's one of the things in the  
14 counseling sessions that you do with Mr. Jones, you talk  
15 to him about staying off of the 31-day list, right?

16 A. I don't recall.

17 Q. You've never counseled Mr. Jones about staying  
18 off the 31-day list?

19 A. About staying off?

20 Q. Right. Not having y'all's cases show up on it.  
21 You have an investigation going on too long.

22 A. Incorrect.

23 Q. So going back and looking, that day we have  
24 this text message sent to -- Mr. Jones to Mrs. [REDACTED]  
25 Exhibit No. 15, page 11 where he says, "Good morning.

1 How is [REDACTED] right? You see that?

2 A. Yes.

3 Q. Did Mr. Jones show you this text?

4 A. No.

5 Q. He just discussed it with you in the staffing?

6 A. The text?

7 Q. Right.

8 A. We didn't discuss the text. We discussed the  
9 child being back with Mom and Dad.

10 Q. So here's the actual text that says, at 9:46,  
11 "How is [REDACTED] And Mom replies with some photos, and  
12 then Mom replies, "Perfect in every way. He is  
13 recovering well. We have to go in next week for a  
14 follow-up CT and then to get his stitches out and we'll  
15 hopefully be done." And then he looks -- "What's next  
16 for us regarding CPS?" She asks that question. Did  
17 Mr. Jones communicate that to you?

18 A. No.

19 Q. That Mom was inquiring what do we need to do  
20 next with CPS?

21 A. No.

22 Q. Now, part of the premise that you and Mr. Jones  
23 and the program director have come up here to tell the  
24 Court about is that y'all have said that the [REDACTED]  
25 absolutely, positively refused to cooperate with CPS

1 after August 28th, right?

2 A. Can you reword the question, please?

3 Q. That's CPS's allegation, that the [REDACTED]  
4 refused to cooperate with CPS after August 28th, right?

5 A. Correct.

6 Q. Okay. And so that's the reason why that CPS  
7 couldn't go out and visit the children, right?

8 A. Incorrect.

9 Q. Well, why couldn't CPS go out and visit the  
10 children?

11 A. Can you reword the question?

12 Q. No.

13 A. I don't know how to answer the question.

14 Q. Why couldn't CPS go out and visit the children?

15 A. CPS could go out and visit the children.

16 Q. Well, so your position is between August 28th  
17 and September 18th, CPS could've gone out and visited  
18 the kids if they wanted to?

19 A. Yes.

20 Q. They just chose not to?

21 A. I can't answer this.

22 Q. Why?

23 A. Because I can't speak for another person.

24 Q. You can't speak for a person that you supervise  
25 or your department does? You don't answer for that?

1           A.    I can't give the answer as to why they did not.

2           Q.    Have you not investigated this case since it  
3 began and started asking your investigator what  
4 happened?

5                   MR. DIEU:   Judge, I object.   Again, it is  
6 asked and answered.

7                   THE COURT:   As far as asking the  
8 investigator what happened?   No.

9                   Please answer.

10          A.    Ask the investigator what happened with  
11 visiting the child?

12          Q.    (BY MR. SLATE)   Yeah.   Why CPS didn't go to the  
13 to the [REDACTED] home and visit the children between  
14 August 28th and September 18th?

15          A.    I can't answer that question.

16          Q.    Why?

17          A.    Because I don't have the answer.

18          Q.    Well, when you authorized removal of the  
19 children, did you have the answer then?

20          A.    The answer to what question?

21          Q.    To why CPS didn't go out and try and visit the  
22 kids?

23                   MR. DIEU:   Judge, again, she already  
24 answered she didn't know.

25                   THE COURT:   You can answer.



1                   "Why -- do you have an answer on the date  
2 of removal, I guess, as to why CPS didn't go out and  
3 visit the kids."

4           A.    No, I didn't.

5           Q.    (BY MR. SLATE)  When you reviewed the affidavit  
6 of removal, did you notice the part where it said that  
7 the [REDACTED] refused all cooperation with the agency here  
8 on page 10 of that Exhibit No. 1?

9           A.    Yes.

10          Q.    Okay.  So if the [REDACTED] had refused all  
11 cooperation with the agency, what --

12                   MR. DIEU:  I object.  The statement or the  
13 paragraph August 28th that Mr. Slate showed, it did not  
14 say that, so I object to misstatement of the facts.

15                   THE COURT:  Which part?  The "So if the  
16 [REDACTED] had refused all cooperation with the agency?"

17                   MR. DIEU:  Yeah, the August 28th.

18                   THE COURT:  Well, let's let him finish the  
19 question and you can object.

20                   So he's going to ask you a question.  If  
21 there is an objection, just wait.

22                   Mr. Slate, if you could ask again.

23           Q.    (BY MR. SLATE)  This part that says:  "He  
24 states at this point he has consulted a lawyer and the  
25 family will no longer be cooperating with the agency."

1 What about that part matches up with these text messages  
2 between Mr. Jones and Mrs. [REDACTED] in Exhibit 15?

3 A. Are you asking me -- I don't understand your  
4 question. Can you rephrase?

5 Q. Well, we know affidavits are sworn to, right?

6 A. Correct.

7 Q. That they have to be the truth?

8 A. Correct.

9 Q. You tell them under oath, right?

10 A. Correct.

11 Q. Does it look like, from these text messages,  
12 that that is the truth that the [REDACTED] weren't going to  
13 cooperate anymore?

14 A. No.

15 Q. Looks like they were pretty cooperative in  
16 these text messages, right?

17 A. Yes.

18 Q. Because here it goes through and shows, "Hey,  
19 can I come out tomorrow and see the kids," right?

20 A. No.

21 Q. Look in the gray box there at the top. "He  
22 looks really good. I would let (sic) to follow up with  
23 you and [REDACTED] Are you guys available to meet  
24 tomorrow?"

25 A. Yes.

1           Q.   And then she says, "[REDACTED] and I are free.  
2 Whenever is good for you. Our kids have Mother's Day  
3 Out from 9:00 to 2:00, but otherwise they will be home  
4 too." "Okay. Let's make it for 5:00 p.m. Will that  
5 work with you guys?" You see that?

6           A.   Uh-huh, yes.

7           Q.   Does that seem cooperative or uncooperative?

8           A.   It appears cooperative.

9           Q.   That's different than what is put into the  
10 affidavit, right?

11                   MR. DIEU: Judge, I object to misstatement  
12 of the facts. The affidavit saying that on August  
13 the 28th, the father notified the agency they stopped  
14 working with the department. The department, on  
15 September the 18th, notified and tried to reengage. We  
16 already heard that many times. So just saying that  
17 somebody refused or somebody who did not refuse I think  
18 is a complete misstatement of the facts.

19                   THE COURT: Okay, but this is cross. He  
20 can state it however he likes, and even say, "Wasn't the  
21 affidavit painted on purple paper?" She could say, "No,  
22 it wasn't." I mean, he doesn't have to state what is  
23 true. So the question is, if I understood it correctly,  
24 in this witness's opinion, is the tone of the text  
25 consistent with what it says in the affidavit? And she

1 can say "yes" or "no." I mean, he could say, "Isn't it  
2 true that the affidavit is really in Spanish," when it's  
3 not. He has a right to ask that, and she can say, "No,  
4 it's not in Spanish." You can ask whether that's  
5 relevant or not, but he doesn't have to stick with what  
6 is in -- no one has to. You wouldn't have to in this  
7 situation.

8 MR. DIEU: It's just that the questions  
9 imply that the affidavit is something that is not  
10 truthful. It says nothing in that. That's what I'm  
11 objecting by the words of it.

12 THE COURT: That's your opinion. What he's  
13 asking is, "What is your opinion? That's different than  
14 what is put into the affidavit, right?" And she can  
15 answer "yes" or "no" or "I don't know; I haven't read  
16 the affidavit" or whatever. He has a right to ask that  
17 question.

18 So I think the question was -- you said,  
19 "It appears cooperative," and he said, "That's different  
20 than what is put into the affidavit, right?"

21 A. Right.

22 Q. (BY MR SLATE) And, in fact, even in Mr. Jones'  
23 testimony here to the Court at the ex parte removal  
24 hearing -- which is Exhibit 59, page 11 -- Mr. Jones  
25 goes and again states here that "Dad informed me on

1 August 24th that he was not going to comply with the  
2 agency anymore, and as result, they would be taking --  
3 they would be taking the children." Well, that doesn't  
4 show that -- when compared to those text messages where  
5 Mrs. [REDACTED] is given the information just from one  
6 single question by Mr. Jones, that doesn't seem to match  
7 up with what he's testifying to, does it?

8 MR. DIEU: Objection. Calls for  
9 speculation, Judge.

10 THE COURT: That's overruled.  
11 Please answer.

12 A. Can you rephrase your question?

13 Q. (BY MR. SLATE) This testimony that you're  
14 looking at here doesn't seem to match up with those text  
15 messages, where all Mr. Jones did was send one question  
16 about how the kids were doing and make a request to come  
17 out and visit, and Mrs. [REDACTED] says, "Come on out."  
18 That doesn't seem to track with what's being testified  
19 to, does it?

20 A. I can't answer that question.

21 Q. Because did you go through and review  
22 Mr. Jones' testimony from the emergency hearing?

23 A. No, I did not.

24 Q. Now, you talked about Mr. Jones' testimony in  
25 the emergency hearing with Mr. Jones, though, right?

1           A.    Can you rephrase your question?

2           Q.    You and Mr. Jones talked about his testimony in  
3 the emergency hearing when you went through it and over  
4 it and talked about it, right?

5           A.    Yes.

6           Q.    You talked about -- you talked about how  
7 Mr. Jones got kind of afraid that he was going to get  
8 caught having lied in his testimony in front of the  
9 Court versus what he put in the affidavit, right?

10          A.    Incorrect.

11          Q.    What did you talk about?

12                   MR. DIEU:  Judge, if I understand  
13 correctly, the question before that question is did she  
14 talk to Mr. Jones after the emergency hearing, and now  
15 the question suddenly changed to before the emergency.

16                   THE COURT:  I thought the question was just  
17 "What did you talk about?"

18                   MR. DIEU:  But that's after the emergency.

19                   MS. PROFFITT:  That's exactly what he's  
20 asking:  After he testified under oath, did he and his  
21 supervisor discuss what he said to this court?

22                   MR. DIEU:  Which she answered.  The  
23 question next to it is before the emergency.  I'm  
24 confused, Judge.

25                   MR. SLATE:  We know.

1                   THE COURT: Yeah, it's a little ambiguous  
2 as to -- well, it is in past tense, though. "Was he  
3 going to get caught having lied in his testimony in  
4 front of the Court versus what he put in the affidavit?"

5                   MR. DIEU: It imply that supervisor -- by  
6 the form of the question, that the supervisor and the  
7 caseworker perpetrate lie before even the emergency  
8 hearing, but there is none. So where the question form,  
9 and I object to the form of the question. It just like  
10 you take one and you put in the other and you  
11 superimpose, and then you want a certain answers coming  
12 out of the witness by the way you're asking the  
13 question.

14                  MS. PROFFITT: You might want to review the  
15 previously admitted R-63.

16                  MR. DIEU: I'm just saying the way the  
17 question ask, I object to the form of the question  
18 because it does superimpose between after the emergency  
19 hearing and before the emergency, and then the  
20 question's confusing the witness by the form of the  
21 questions. I mean, if Judge is confused; I'm confused;  
22 obviously, the caseworker also confused.

23                  THE COURT: Are you confused by the  
24 question?

25                               (Witness nods head affirmatively)

1 THE COURT: Okay. Maybe we can start over  
2 about the conversation.

3 MR. SLATE: What do you want me to do,  
4 Judge?

5 THE COURT: Well, I think re-ask the  
6 question and maybe clarify whether you mean a  
7 conversation they may have had before he went to the  
8 emergency versus after.

9 Q. (BY MR. SLATE) Did you -- well, after the  
10 emergency hearing, did you and Mr. Jones have a  
11 conversation about his testimony during the emergency  
12 hearing?

13 A. No.

14 Q. You never talked to him about it?

15 A. About his testimony? No.

16 Q. You never had a discussion about whether or not  
17 Mr. Jones might have been truthful or not in his  
18 emergency hearing testimony?

19 A. No.

20 Q. Okay. First, I want to show you Exhibit 55,  
21 and I'm going to start back on page No. 424 -- actually,  
22 I'll start with 425. You see that on the screen?

23 A. Yes.

24 Q. Okay. Now, as part of a request for documents  
25 that I served on you, Mr. Jones and Mrs. Beaudoine, you,



1 as your part, came up and put together some emails and  
2 some text messages, right?

3 A. Correct.

4 Q. Okay. What did you do with those emails and  
5 text messages? How did they get into this stack of  
6 production documents?

7 A. I printed them out.

8 Q. You printed them out and gave them to who?

9 A. I printed them out and submitted it to the  
10 redaction team.

11 Q. Okay.

12 MR. DIEU: Judge, has this document and  
13 following pages been already admitted into the evidence?

14 MR. SLATE: Exhibit 55, my friend.

15 MR. DIEU: At the show-cause hearing?

16 MR. SLATE: Here, too.

17 MR. DIEU: Just on the face of it, Judge,  
18 it is very obvious it is the attorney-client privilege.  
19 I mean, you have the names of the attorney. You have  
20 the names of the people --

21 MR. SLATE: The names of the people aren't  
22 -- it's communication that's privileged, and y'all  
23 redacted out everything else. But, anyway, it's already  
24 admitted.

25 THE COURT: It's already admitted, isn't

1 it?

2 Q. (BY MR. SLATE) Now, when you went through and  
3 gave this, did you put together text messages that you  
4 had with Mr. Jones?

5 A. Yes.

6 Q. Now, did you put -- initially, did you put the  
7 entire text streams that you had with Mr. Jones, or did  
8 you kind of pick and choose what you wanted to put?

9 A. I put what was pertaining to the case.

10 Q. Everything that was pertaining to the case?

11 A. Correct.

12 Q. Okay.

13 A. To my knowledge, yes.

14 Q. I want to go through and look at these pages,  
15 and help me out here for a second.

16 A. Okay.

17 Q. So this is 425. I'm going to go to 424. This  
18 pertains to the case and it's got a date up there of  
19 September 18th, right?

20 A. Okay. Yes.

21 Q. So then we look here, the next page, that's  
22 423. And now at the bottom, it says 424, so I can go  
23 with that number too. We can say the bottom document is  
24 424. Anyway, so there, it's got some text messages  
25 dated September 19th, right?

1           A.    Correct.

2           Q.    If we look on the next screen, that document is  
3 dated numbered 423 at the bottom, and it's got some more  
4 text messages from Wednesday, September 19th, right?

5           A.    Correct.

6           Q.    We go to the next page, 422, there is no date  
7 on any of these text messages, right?

8           A.    Right.

9           Q.    Do you see anything on these text messages that  
10 shows that you and Mr. Jones have discussed anything  
11 about his testimony?

12          A.    About his testimony?

13          Q.    Right.

14          A.    No.

15          Q.    Okay. I'm going to go to the next page. So  
16 that one down there at the bottom is 422. Let's go to  
17 421.

18          A.    Okay.

19          Q.    You see here this is also September 19th. You  
20 see anything in there about Mr. Jones' testimony?

21          A.    No.

22          Q.    Here at 420, page 420, you see anything in  
23 there on September 20th, the date on these, anything  
24 about his testimony?

25          A.    No.

1           Q.    Here, 419.  Anything in there about Mr. Jones'  
2 testimony?

3           A.    No.

4           Q.    Here, 418.  These are dated on September 20th  
5 and September 21st.  Anything about Mr. Jones'  
6 testimony?

7           A.    No.

8           Q.    And here on exhibit -- page 417, the next page.  
9 Anything in there about Mr. Jones' testimony?

10          A.    No.

11          Q.    Page 416.  Anything in there about Mr. Jones'  
12 testimony?

13          A.    No.

14          Q.    That's dated September 22nd?

15          A.    No.

16          Q.    Here, the next page, 415.  Anything about  
17 Mr. Jones' testimony?

18          A.    No.

19          Q.    414, anything about Mr. Jones' testimony?

20          A.    No.

21          Q.    413, anything about Mr. Jones' testimony?

22          A.    No.

23          Q.    412, anything there about Mr. Jones' testimony?

24          A.    No.

25          Q.    411, anything about Mr. Jones' testimony?

1                   MR. DIEU: Judge, may I stop and to  
2 clarify. These text message, I assume it go consequence  
3 in terms of chronological, meaning these things are  
4 September 22nd --

5                   MR. SLATE: Judge, I just ask Mr. Dieu to  
6 only make legal objections and quit interrupting me  
7 during my cross and taking up my time with nonlegal  
8 objections.

9                   MR. DIEU: Judge, this is legal objection.

10                  MR. SLATE: What's the legal objection?

11                  MR. DIEU: These text message, there's no  
12 date. I don't know when this one sent --

13                  MR. SLATE: They provided it, Judge.

14                  MR. DIEU: -- September 22nd followed it's  
15 chronological, because otherwise this can be out of  
16 context.

17                  MR. SLATE: It's the order they provided it  
18 and they stamped it. That stamp on the bottom of those  
19 numbers came from the county attorney's office. So if  
20 they are mad what about order they are in, they put them  
21 in that order.

22                  THE COURT: So what is the objection then?

23                  MR. DIEU: The objection, I want to clarify  
24 all these things go by sequence when it's chronological;  
25 September 22nd, subsequent after that.

1                   THE COURT: I'm assuming they are in a  
2 sequence because that aligns with how they were Bates  
3 stamped.

4                   MR. DIEU: That's what I'm asking is to  
5 make sure it's sequence.

6                   THE COURT: I think what he's saying is he  
7 didn't do the Bates stamping; it was the county  
8 attorney's office or somebody with FPS.

9                   MR. DIEU: I understand, Judge. But I  
10 don't know if people do -- reshuffle and put things in.  
11 I just want to make sure it's clarify that on the record  
12 these are sequences.

13                  MR. SLATE: That's not a legal objection.  
14 I ask Mr. Dieu to stop standing up and making nonlegal  
15 objections.

16                  THE COURT: Yeah, that's overruled.  
17 I tell you what, let's take about a  
18 five-minute break. Thank you.

19                  (Brief recess)

20                  THE COURT: Please be seated.

21                  MR. SLATE: May I, Judge?

22                  THE COURT: You may.

23                  Q. (BY MR. SLATE) Now, we were looking here a  
24 moment ago, Ms. Edwards, in these text messages. We  
25 were on page 411 when we left off. And in 411, I'd

1 asked you whether or not any of that text message had  
2 anything to do about a conversation that you and  
3 Mr. Jones had about the emergency hearing or any  
4 testimony he gave. Does it?

5 A. No.

6 Q. Okay. We look here on Exhibit 410 -- page 410  
7 of Exhibit No. 55. You see anything there?

8 A. No.

9 Q. On page 409, do you see anything there?

10 A. No.

11 Q. Page 408, you see anything on that one?

12 A. No.

13 Q. Now, if we look here at the top, we see that  
14 that is dated September 25th at 9:53 p.m., right?

15 A. Correct.

16 Q. If we look up here on page 407, the next page,  
17 we see this one gets dated Wednesday, September 26th  
18 there and also down here at the bottom, right?

19 A. Correct.

20 Q. Do you see anything in there for -- about a  
21 conversation you and -- between you and Mr. Jones about  
22 any of his testimony in the emergency hearing?

23 A. No.

24 Q. Now, September 25th, that was the day that we  
25 had come down here for mediation, right?

1           A.    Correct.

2           Q.    Okay.  And you and Mr. Jones attended that,  
3 right?

4           A.    Correct.

5           Q.    Okay.  And then I'm just going to be clear that  
6 these cover all the different text messages that you  
7 provided to us.  I'm going to go to page 406.  You see  
8 anything in this one about testimony?

9           A.    No.

10          Q.    Page 405, anything about testimony?

11          A.    No.

12          Q.    And that's, again, Wednesday September 26th.  
13 Page 404, anything about testimony?

14          A.    No.

15          Q.    Page 403, about testimony?

16          A.    No.

17          Q.    Page 402?

18          A.    No.

19          Q.    Page 401?

20          A.    No.

21          Q.    Page 400?

22          A.    No.

23          Q.    Page 399?

24          A.    No.

25          Q.    Page 398?



1 A. No.

2 Q. Page 397?

3 A. No.

4 Q. Page 396?

5 A. No.

6 Q. Okay. And then we start getting in page 395.

7 We get into emails and letters, right?

8 A. Correct.

9 Q. There is nowhere else in these documents that  
10 you provided text messages, is there? That was the full  
11 extent of the text messages that you provided, right?

12 A. I provided two sets of text messages.

13 Q. The first set. So the very first request, this  
14 is what you provided, right?

15 A. Yes.

16 Q. The second time, you were told to go back and  
17 make sure you included every single text message between  
18 you and Mr. Jones and to not cut anything out, right?

19 A. Correct.

20 Q. When he look here, Exhibit No. 60 is the second  
21 set of text messages, right?

22 A. Correct.

23 Q. Okay. And in the second set of text messages,  
24 if we look here on page 16 -- I can highlight and you  
25 can see right here -- on September 25th, 10:44, we can

1 see part of one of those same pages that we had just  
2 looked at in the other exhibit, right?

3 A. I'm not sure.

4 Q. I'll show you back -- I'll show you back to  
5 Exhibit No. 55, page 411. You see here?

6 A. Yes.

7 Q. Okay. That was the text message we looked at  
8 in that exhibit. And we go back over here to Exhibit  
9 No. 60, we see that same one with doctor appointments,  
10 right?

11 A. Yes.

12 Q. So when we follow down along through this text  
13 message, here, that day -- later on that day, you have a  
14 conversation at -- right at 5:53 p.m. with Mr. Jones,  
15 right?

16 A. Yes.

17 Q. Please read to me what Mr. Jones says to you?

18 A. "I believe that I said [REDACTED] told me that he  
19 was going to pick up the children during the -- "

20 Q. Go to the next page.

21 A. " -- emergency hearing. I believe that they  
22 are trying to get us on that transcript."

23 Q. What do you reply?

24 A. "That's fine."

25 Q. And he says, "Absolutely." What's your reply?

1 A. "The courts have still granted this."

2 Q. And the next one?

3 A. "The judge granted the removal."

4 Q. So Mr. Jones is telling you right then that he  
5 has testified to something different than what's in his  
6 affidavit, right?

7 A. That's not my interpretation of that.

8 Q. He's telling you right there that "they are  
9 going to get me because in the hearing, I said [REDACTED]  
10 told me he was going to pick up the children," right?

11 A. I don't have an answer. I can't answer that.

12 Q. Why can't you answer that?

13 A. Can you ask the question again?

14 Q. He's telling you right there in that text  
15 message that he knows his testimony in the hearing is  
16 different than what the affidavit says, that that's what  
17 "they are trying to get me on," right -- "get us on,"  
18 I'm sorry -- right?

19 A. What's the question?

20 Q. That's what you and Mr. Jones are talking about  
21 in these text messages, right? Because at this point,  
22 at 5:53, the mediation is over, right?

23 A. Yes.

24 Q. And you've now heard from sitting there in the  
25 mediation that I said Mr. Jones had lied?

1           A.    Yes.

2           Q.    And that I was going to make a big deal about  
3 the fact that Mr. Jones lied in his removal affidavit,  
4 right?

5           A.    What's the question?

6           Q.    That's what you knew from mediation, right?

7           A.    I knew?

8           Q.    You knew that I was accusing you and Mr. Jones  
9 of lying in the removal affidavit?

10          A.    Incorrect.

11          Q.    Well, here, what are -- what possibly could  
12 have prompted you and Mr. Jones to have a conversation  
13 about "I know that's what they are going to get us on"?

14          A.    I can't answer that question.

15          Q.    Well, you obviously thought that this was  
16 really bad, this text message right here?

17          A.    Incorrect.

18          Q.    That's why you didn't include it in the first  
19 set of text messages when I told you to give me all your  
20 text messages with Mr. Jones about the [REDACTED] case?

21          A.    No.    Incorrect.

22          Q.    You cut it out?

23          A.    No.

24          Q.    You didn't give it to me until after we got a  
25 court order saying all of your text messages come over?

1           A.    Incorrect.

2           Q.    Why wasn't it in there, ma'am?  Why did you cut  
3 this one out?

4           A.    To cut out conversations of other things.  It  
5 was just an error.

6           Q.    You're trying to say this conversation right  
7 here isn't about the [REDACTED] case?

8           A.    It is.

9           Q.    Okay.  So when you were given an order to turn  
10 over all text messages between you and Mr. Jones about  
11 the [REDACTED] case, you intentionally left out the one  
12 where y'all are talking about the fact that you  
13 know that I know that y'all lied in the testimony?

14          A.    Incorrect.

15          Q.    What's incorrect about it?

16          A.    It wasn't intentional.

17          Q.    It was an accident?

18          A.    It was an error.

19          Q.    An error on whose part?

20          A.    I guess on mine to give you the text message.

21          Q.    Okay.  So you commit the error on this text  
22 message, but do you agree that that right there is an  
23 admission that there is a problem with his testimony?

24          A.    No.

25          Q.    Why?

1           A.    Because it doesn't give the whole conversation.  
2   It gives a snippet of what he's talking about.

3           Q.    Because the allegation that was made at  
4   mediation was that this affidavit makes it sound like  
5   y'all had no idea that the kids were back with the  
6   [REDACTED] starting back on August 28th, doesn't it?

7           A.    We didn't.

8           Q.    And, yet, his testimony in court, he's sitting  
9   there telling you in that conversation that, "Hey, they  
10   might have gotten me in my testimony in court because I  
11   might have said something about [REDACTED] knowing -- or me  
12   knowing that [REDACTED] said he was going to pick the kids  
13   up," which is what he testified about, right?

14          A.    Incorrect. The dates -- all the dates -- you  
15   putting all the dates together. These are different  
16   time frame.

17          Q.    Okay. On September 18th, Mr. Jones drafted an  
18   affidavit, right?

19          A.    Correct.

20          Q.    On that same -- or that next day, he gives you  
21   a copy of the affidavit to review for truthfulness and  
22   for accuracy, right?

23          A.    Correct.

24          Q.    You review it for truthfulness and for  
25   accuracy?

1           A.    Correct.

2           Q.    You sign off and say, "Yes, it's good. Go  
3 ahead and file it and remove those children," right?

4           A.    Correct.

5           Q.    Okay. And so here, when you put on page 7,  
6 "Good job on the affidavit. Please report to legal  
7 first thing," you're authorizing what that affidavit  
8 says, right?

9           A.    Correct.

10          Q.    That affidavit clearly makes it sound like  
11 these kids were with the [REDACTED] but y'all, CPS, had no  
12 idea until September 18th, right?

13          A.    Correct.

14          Q.    And, yet, here we have Mr. Jones in his  
15 emergency hearing testimony saying, "Dad informed me on  
16 August 24th he was not going to comply with the agency  
17 anymore and as a result, they would be -- they would be  
18 taking the children," right?

19          A.    Right? What's on the screen or?

20                   THE COURT: I don't know. You can ask him  
21 if you don't understand the question.

22          A.    Can you rephrase the question?

23          Q.    (BY MR. SLATE) Showing you Mr. Jones'  
24 testimony from the emergency hearing that occurred on  
25 September 19th, highlighted in yellow the answer to the

1 question asked Mr. Jones, "Dad informed me August 24th  
2 that he was not going to comply with the agency anymore  
3 and as a result, they would -- they would be taking --  
4 they would be taking the children." That's different  
5 than what the affidavit says, isn't it?

6 A. Yes.

7 Q. And in turn, that's what you and Mr. Jones are  
8 discussing in this text message that you didn't turn  
9 over when you were first requested to do so?

10 A. Incorrect.

11 Q. What's incorrect about that?

12 A. Because I didn't know about the children being  
13 in the care of the parents until the 18th.

14 Q. That's not what I said. That's what you're  
15 discussing in this text message that you failed to turn  
16 over?

17 A. No. Incorrect.

18 Q. Do you see any way that that might look like  
19 you're trying to hide and sweep away some evidence?

20 A. I don't.

21 Q. That maybe you're actually realizing at this  
22 point in time that y'all are about to get caught lying  
23 and stealing kids?

24 A. No.

25 Q. That doesn't look like that to you at all,



1 which is why you turned over the message?

2 A. What's the question?

3 Q. That's why you turned over the text message  
4 when you were requested, right?

5 A. I don't understand your question.

6 MR. SLATE: Judge, are you looking for a  
7 spot for us to pause?

8 THE COURT: Go about five or ten more  
9 minutes.

10 Q. (BY MR. SLATE) Ma'am, in the removal  
11 affidavit, there is a portion in here that talks about  
12 there not being any evidence to explain the bleeding in  
13 the child's head. Do you see that?

14 A. Correct.

15 Q. Now, when you read that, did you believe that  
16 to be a true statement?

17 A. I did.

18 Q. Okay. And so here, when we go back and look in  
19 your file and we look in Exhibit 55 on page 369, we know  
20 that during the family team meeting, you were given this  
21 paperwork that's on page -- No. 370 down there on the  
22 bottom. You see that?

23 A. Correct.

24 Q. And on there -- did you read these documents?

25 A. Yes.

1           Q.    Okay.  And it says:  "These data suggest Von  
2 Willebrand disease Type 1.  The patient carries a risk  
3 for bleeding," right?

4           A.    Correct.

5           Q.    How does that line up with the statement in the  
6 sworn affidavit of no evidence of hematology issues?

7           A.    Well, there is a series of panel tests ran, and  
8 that is only one of the levels provided to the agency.

9           Q.    Okay.  What were the other levels that were  
10 provided to the agency that would have overridden the  
11 ones that were in your file?

12          A.    According to the medical staff, there is no  
13 blood disorder for the child.  This is just one of the  
14 panels that was provided to the agency.

15          Q.    Ma'am, let's talk about the rules for  
16 documenting your file.  What does CPS Rule 2222 require  
17 in regards to making documentation for contacts with  
18 anybody involved in an investigation?

19          A.    It needs to be documented within the case in  
20 IMPACT.

21          Q.    Within how many days?

22          A.    Immediately.

23          Q.    So here we have this documentation saying the  
24 child does carry a risk for bleeding, right?

25          A.    One of the panels.

1           Q.    Are there any other medical records in this  
2 file that says the child does not carry a risk for  
3 bleeding?

4           A.    No other records were provided.

5           Q.    Are there any other comments where anybody from  
6 TDFPS, from CPS, from the agency spoke to any doctor  
7 that said this child does not have hematology issues,  
8 yes or no?

9           A.    Can you rephrase your question?

10          Q.    Any documented contacts with any physician, by  
11 any person at TDFPS to any physician that says this  
12 child doesn't have hematology issues?

13          A.    We were no longer allowed to document in this  
14 case.

15          Q.    Ma'am, is that a yes or a no it's in your file?

16          A.    No.

17          Q.    Okay.  Because as of the date you went and  
18 filed for removal, and you guys put into and under oath  
19 that sentence, "no hematology issues," you had every bit  
20 of ability to go out and get any evidence you needed,  
21 right, from any doctor?

22          A.    There are no hematology issues.

23          Q.    Ma'am, maybe you're not understanding my  
24 question so I'll try it a different way.

25          A.    Maybe I'm not.

1           Q.    We have documentation that there are hematology  
2 issues in your file, right?

3           A.    One of the panels.

4           Q.    Yes or no, ma'am?

5           A.    Yes.

6           Q.    Do you understand "yes" or "no"?

7           A.    Yes.

8           Q.    Okay.  Anywhere in your file there is  
9 documentation that says there are no hematology issues  
10 that overrule -- hey, previous panels don't mean  
11 anything.  We overrule it.  Yes or no?

12          A.    I don't understand your question.

13          Q.    Anything in your file from any medical  
14 professional that says there aren't hematology issues?

15          A.    No.

16          Q.    Anything in your file where it shows you or  
17 your worker had contact with any physician that told you  
18 there are no hematology issues?

19          A.    Contact was made with a physician.

20          Q.    Who?

21          A.    Dr. Bachim.

22          Q.    When?

23          A.    I don't recall the date, but we talked to  
24 Dr. Bachim.

25          Q.    Who?  Because we got all your contacts, so we

1 can obviously find what date was it on?

2 A. October.

3 Q. Wait, you said "October"?

4 A. Uh-huh.

5 Q. So after you filed for removal?

6 A. Well, investigations are ongoing. You continue  
7 to gather information.

8 Q. Ma'am, do you understand that you filed an  
9 affidavit under oath?

10 A. Uh-huh.

11 Q. Yes?

12 A. Yes.

13 Q. And at the time, the only evidence in your file  
14 says there is hematology issues, yes or no?

15 A. No.

16 Q. What evidence in your file said there weren't  
17 hematology issues on September 18th, ma'am?

18 A. This was provided to us by the parents.

19 Q. What?

20 A. That was provided to us by the parents.

21 Q. It says it's from Texas Children's, ma'am?

22 A. So we have to confirm it.

23 Q. And did you?

24 A. It was --

25 Q. Did you confirm --

1 THE REPORTER: Hang on. Y'all are talking  
2 over each other.

3 Q. (BY MR. SLATE) Tell me the day you confirmed  
4 it, ma'am.

5 A. I don't recall the date, but we did speak to  
6 the social worker with the CAP team.

7 Q. A physician, ma'am?

8 A. She worked directly --

9 MR. SLATE: Objection Your Honor,  
10 nonresponsive.

11 THE COURT: That's sustained.

12 Q. (BY MR. SLATE) A physician, ma'am. What  
13 physician did you confirm it with?

14 A. No physician at that date.

15 Q. So how are you able to write "no evidence of  
16 any hematology issues" if you didn't talk to a doctor?

17 A. Because it wasn't reported that the child had  
18 any blood disorders.

19 Q. Except for your file?

20 A. One of the panels.

21 Q. Do you realize the child is still seeing a  
22 hematologist specialist for his blood disorder?

23 A. That's not reported to me.

24 Q. Have you talked to any of the hematologists?

25 A. No.

1           Q.    Wouldn't that be a place to start to see  
2 whether or not a child has hematology issues?

3           A.    Yes.

4           Q.    Did you hear Dr. Sarpong agree that this child  
5 has bleeding issues?

6           A.    Yes.

7           Q.    Okay.  So today, still, we have bleeding  
8 issues, but you're saying you're convinced this child  
9 doesn't?

10          A.    A doctor reported he doesn't.

11          Q.    And a doctor that has treated or seen this  
12 child?

13          A.    Yes.

14          Q.    When?

15          A.    When the doctor --

16          Q.    When is the last time --

17                   THE REPORTER:  Hang on.  Wait a minute.

18                   THE COURT:  Hang on.  One at a time.

19          Q.    (BY MR. SLATE)  When was the last time the  
20 doctor you're speaking of saw this child?

21          A.    I can't answer that question.

22          Q.    Why?

23          A.    Because I don't have that information.

24          Q.    So you're not a very good investigator?

25          A.    I didn't say that.

1           Q.   Well, you would know the last time the person  
2 you're going to rely your honesty and integrity and the  
3 integrity of your investigation, you would know, if you  
4 were any kind of investigator, when is the last time  
5 they saw the child, right?

6           A.   The hematologist works with Texas Children's,  
7 correct. His doctor has access to those records.

8           Q.   So why wouldn't you just call that doctor who  
9 actually saw that child?

10          A.   Because the doctor I spoke to had the same  
11 access to those records.

12          Q.   How do you know?

13          A.   Because it all Texas Children's.

14          Q.   How do you know? Because we had a doctor  
15 sitting in that same seat just a couple of weeks ago who  
16 said the child had hematology issues.

17          A.   The doctor went on vacation during the case.

18          Q.   For two days, ma'am. He went to Chicago for  
19 classes. Is that your -- really what you're going to  
20 rely on your defense to say that you're not a liar?

21                   MR. DIEU: Objection.

22                   THE COURT: What's the objection.

23                   MR. DIEU: Judge, it is the attorney  
24 testimony rather than the witness. He's not asking the  
25 question; he's testifying and putting words in our



1 witness' mouth.

2 THE COURT: All right. That's overruled.

3 Q. (BY MR. SLATE) That's what you're going to  
4 rely on to prove you're not a liar?

5 A. What's the question?

6 Q. You're going to sit here and rely on a doctor  
7 possibly talking to someone else and not actually call  
8 the doctor yourself?

9 A. I don't understand your question.

10 Q. Do you know by your own medical records in your  
11 own file contact, it shows the last time Dr. Bachim ever  
12 had anything to do with this case was on July 21st?

13 A. I don't recall.

14 Q. Prior to hematology even coming back on  
15 July 24th.

16 A. What's the question?

17 Q. Do you realize that hematology reports came  
18 back on July 24th?

19 A. Right. But I've spoken to her after July 24th  
20 and it's nothing that has changed.

21 Q. And she hasn't seen the child since before  
22 then?

23 A. She's seen the records.

24 Q. Ma'am, you realize that you're here today to  
25 justify your removal of people's children, right?

1           A.    Correct.

2           Q.    Are you telling us that this is the kind of  
3 investigations that you do and authorize removal of  
4 people's children without ever speaking to doctors that  
5 actually see the kids before you make a case on medical  
6 issues?  Is that how you do investigations, ma'am?

7           A.    What's the question?

8           Q.    Ma'am, do you rely on doctors that don't even  
9 see the children to make your medical removal cases, yes  
10 or no?

11          A.    Incorrect.

12          Q.    Okay.  Well, how come you did that in this  
13 case?

14          A.    Did what?

15          Q.    You relied on a doctor who hadn't seen the  
16 child since, oh, I don't know, two months prior to when  
17 you did the removal?

18          A.    Because he have access to the records.

19          Q.    And you talked to her on what day before the  
20 removal?

21          A.    I hadn't.

22          Q.    So you just blindly authorized a removal  
23 without even thinking to go and call?

24          A.    Call the doctor?

25          Q.    Yeah.

1           A.    I hadn't talked to the doctor at the point of  
2 removal.

3           Q.    Is that a good idea to talk to them before the  
4 removal or not?

5           A.    I spoke to the social worker.

6           Q.    Do you need to talk to the doctor or not?

7           A.    It's best practice to talk to the doctor, yes.

8           Q.    But you didn't do best practice?

9           A.    I didn't talk to the doctor.

10          Q.    Ma'am, do you understand the questions, yes or  
11 no? You didn't talk to the doctor, right, even though  
12 it's best practice?

13          A.    Right.

14          Q.    I'm not trying to be confusing. Are you  
15 confused?

16          A.    A little bit.

17          Q.    Okay. So you put on there in this affidavit:  
18 "Safety placement -- Child safety placement was made  
19 with paternal grandparents while the department waited  
20 for hematology reports." Well, when were those  
21 hematology reports going to come in?

22          A.    I can't answer that question.

23          Q.    What hematology reports had the department  
24 requested?

25          A.    I can't answer that question.

1 Q. Why?

2 A. Because I don't request records.

3 Q. You what?

4 A. I don't request records.

5 Q. So you don't know when this investigation was  
6 going to be over or when the child safety placement  
7 would be over?

8 A. Investigations are ongoing, so we continue to  
9 collect information as we have been, even with this  
10 going on, continued to collect information regarding the  
11 case.

12 Q. Okay. And so up to September 18th, how come  
13 there is no entry in the event logs showing any  
14 information was collected on this case after August --  
15 from August 28th to August (sic) 18th?

16 A. I can't answer that question.

17 Q. What was the ongoing investigation? I mean,  
18 let's look at your event log, ma'am. Here on  
19 Exhibit 55, we've got events August 23rd, 2018. The  
20 next event; 9/18. How come there is nothing in between  
21 those two?

22 A. No contacts was entered.

23 Q. What?

24 A. No contacts was entered.

25 Q. What was the ongoing investigation? What were

1 you doing?

2 A. I can't answer that question.

3 Q. Why?

4 A. Because I'm not the person that requests this  
5 information.

6 Q. That what?

7 A. I wouldn't be the person that requests the  
8 information.

9 Q. You're the supervisor?

10 A. But I don't request information.

11 Q. So when you become a supervisor, you don't have  
12 to do anything else other than say it's the worker's  
13 fault?

14 A. No. I rely on the information provided to me  
15 by the worker.

16 Q. Okay. So if a worker isn't providing any  
17 information to you, how can you make a call to remove  
18 people's children?

19 A. Well, at that point, the child -- the children  
20 were back in the care of the alleged perpetrators. The  
21 child is vulnerable age with multiple injuries.

22 Q. We know they're the alleged perpetrators  
23 because you didn't do any more investigation into all  
24 the other people that had access to the kids, right?

25 A. Incorrect.

1           Q.   Who else were the people you did investigations  
2 to, ma'am? We just covered this earlier.

3           A.   The alleged perpetrators. They are named as  
4 alleged perpetrators.

5           Q.   By who?

6           A.   By the intake report.

7           Q.   Was made by who?

8           A.   The reporters are confidential.

9           Q.   Okay. But that -- so someone making a report  
10 is all you need to remove people's kids? You don't have  
11 to investigate it?

12          A.   You have to investigate it.

13          Q.   Okay. So from that report, what did you do to  
14 confirm or to rule out that the parents were  
15 perpetrators?

16          A.   There was no information to rule out that they  
17 were, in fact, the perpetrators. There was information  
18 to suggest that the vulnerable age child with multiple  
19 injuries had received injuries while in the care of --  
20 either Mom or Dad's care, lack of explanation, multiple  
21 injuries to his skull.

22          Q.   Ma'am, you can say that a hundred times, but it  
23 doesn't change the fact that you didn't go and talk to  
24 anybody who else had access to the child, right?

25          A.   According to Mom, no one had access to her

1 child.

2 Q. Ma'am, we just went through your own records.  
3 Are you now going to try and refute your own records?

4 A. I'm not refuting.

5 Q. Yes or no?

6 A. I don't understand your question.

7 Q. Are you trying to refute your own records that  
8 we just spent almost an hour going through and showing  
9 these contacts with the church and with the cousin  
10 watching the kids?

11 A. No.

12 Q. Okay. So your own records say it, and, yet,  
13 you're here today saying no one else had the ability to  
14 do this?

15 A. You asked me about why the contact was not --

16 Q. No. I asked you what you did to rule out  
17 anyone else or to explain for the parents.

18 A. I don't understand your question. Explain to  
19 the parents?

20 Q. How come you don't understand anything I ask  
21 you? Somebody teach you to say that over and over  
22 again? Somebody coach you to say "I don't understand  
23 the question," every time I ask it?

24 A. No.

25 Q. Why do you keep doing it?

1           A.    Because I don't understand what you're asking.

2           Q.    Do you think you someone who can't understand  
3 questions should be making calls to remove people's  
4 kids?

5           A.    I think the way you word your questions --

6           Q.    Do you think you're intelligent enough to make  
7 the call to remove people's children?

8           A.    I believe so, yes.

9           Q.    Well, how come when we just went through the  
10 investigation records, and it said clearly that there is  
11 a second cousin watching the kids two times a week, five  
12 hours a day -- it says that clearly -- you didn't go and  
13 investigate it; and, yet, you removed the kids based  
14 upon saying there was no one else it could possibly be?  
15 Let me guess, you don't understand, right?

16          A.    I don't.

17          Q.    When we have Exhibit No. -- I'm going to show  
18 you this. This is Exhibit No. 64. What are these?

19          A.    Just conference notes between myself and Lavar.

20          Q.    Who types them up?

21          A.    I type them up.

22          Q.    Okay. In your conference notes here, tell me  
23 what this note means.

24          A.    At the time, with the information that we had,  
25 we were considering a safety plan to allow Mom to



1 continue a bonding period with the baby because, at that  
2 time, different tests were being ran and the results  
3 hadn't returned at that time.

4 Q. Okay. And so here, you're talking about safety  
5 plans in place. "Background checks have been ran on  
6 family members and friends listed below. Social worker,  
7 Sandra Rosinski-Russell will keep the agency updated,"  
8 and then it's got some bullet points. Please read those  
9 bullet points for me, ma'am.

10 A. "Maternal grandmother is Debra Verrill;  
11 paternal grandmother is [REDACTED] [REDACTED] babysitter,  
12 Cierra Jester; and babysitter's mom is Deloris Jester.

13 Q. Hmm. You typed up that there is a babysitter  
14 named Cierra Jester.

15 A. The babysitter will be according to how we  
16 staffed it because these are just notes. It's not  
17 saying that she was a babysitter prior to our  
18 investigation.

19 Q. Ma'am, the child it says is currently at Texas  
20 Children's Hospital?

21 A. Right.

22 Q. You're typing that that is what this lady's  
23 relationship is; she is a babysitter.

24 A. Incorrect.

25 Q. Why did you call her a babysitter if she wasn't

1 a babysitter?

2 A. She would be a babysitter to the primaries,  
3 Debra and [REDACTED] in the event that they needed help.  
4 That's where they would come in.

5 Q. Why is [REDACTED] just the babysitter's  
6 mom?

7 A. Because that's the way they communicated. At  
8 this point in the case, they talked about her as she  
9 would be able to help [REDACTED] in the event that Cierra --

10 Q. So Ms. [REDACTED], her role was going to be  
11 placement, right?

12 A. Incorrect.

13 Q. And then Ms. [REDACTED] ended up being placement,  
14 right?

15 A. Ms. Debra was never going to be a placement.

16 Q. She was the original safety plan placement.

17 A. Placement would mean the child is placed  
18 outside the home. The maternal grandmother would've  
19 been in the home with Mom.

20 Q. How come it doesn't say "[REDACTED] [REDACTED]  
21 safety placement"?

22 A. Well, because these are notes between myself  
23 and Lavar, so he understands the language. You  
24 wouldn't.

25 Q. We can't just -- we learned that earlier. We

1 can't just listen to your words because they might have  
2 other meanings other than their plain meaning, right?

3 A. Right.

4 Q. Let me show you here. Here is the initial  
5 intake. Exhibit 55, page No. 29. Do you see that?

6 A. Correct.

7 Q. Okay. In it, we see that MO was OV and SB's  
8 main caregiver. What does that mean?

9 A. Mother was oldest victim and sibling's main  
10 caregiver.

11 Q. It talks down here about there being a second  
12 CO. That's cousin, right?

13 A. Correct.

14 Q. Takes care of oldest victim twice a week, five  
15 hours a day?

16 A. Correct.

17 Q. That's the same person you got listed as  
18 babysitter, right?

19 A. Incorrect.

20 Q. [REDACTED] [REDACTED] is not a cousin?

21 A. [REDACTED] [REDACTED] is a cousin.

22 Q. That's not the same cousin?

23 A. At the time of the intake, we didn't have any  
24 of this information regarding who that person was.

25 Q. But it's still the same person, right, or did

1 your investigation not make that conclusion?

2 A. That cousin listed in the intake, it was  
3 actually an aunt who would've been Mrs. [REDACTED]  
4 sister -- aunt to the child -- as a person that would've  
5 been, I guess, living in the home, according to our  
6 first contact with the family. The aunt wasn't in the  
7 home anymore. When we get these intakes, we don't just  
8 type these up. It's based on the information provided.

9 Q. And so the handwritten notes from Lavar say  
10 second cousin. The typed up notes from your meeting say  
11 cousin or babysitter, [REDACTED]. The background  
12 data on [REDACTED] says that she's a cousin. And  
13 you're now trying to say that the intake report where it  
14 says a cousin was watching the kids twice a week isn't  
15 [REDACTED]?

16 A. I can't answer that question.

17 Q. Well, you're doing a lot of mental gymnastics  
18 to try to avoid the fact that it was clearly in the  
19 paperwork that there was a babysitter for these kids  
20 that you never investigated, right?

21 A. What's the question?

22 Q. It's real clear that there was a babysitter,  
23 regardless of who it was, that you never investigated?

24 A. According to Mom, she cared for her own  
25 children.

1                   THE COURT: I'll tell you what, let's go  
2 ahead and break. It's my understanding we already have  
3 a date to come back next Monday. Okay. Thank you.

4                   (Court adjourned)

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## 1 REPORTER'S CERTIFICATE

2 THE STATE OF TEXAS )

3 COUNTY OF HARRIS )

4 I, Cara Massey, Official Court Reporter in and  
5 for the 314th District Court of Harris County, State of  
6 Texas, do hereby certify that the above and foregoing  
7 contains a true and correct transcription of all  
8 portions of evidence and other proceedings requested in  
9 writing by counsel for the parties to be included in  
10 this volume of the Reporter's Record in the above-styled  
11 and numbered cause, all of which occurred in open court  
12 or in chambers and were reported by me.

13 I further certify that this Reporter's Record  
14 of the proceedings truly and correctly reflects the  
15 exhibits, if any, admitted by the respective parties.

16 I further certify that the total cost for the  
17 preparation of this Reporter's Record is \$4754.14 and  
18 was paid/will be paid by DFPS.

19 WITNESS MY OFFICIAL HAND this the 13th day of  
20 March, 2019.

21  
22 /s/ Cara Massey  
CARA MASSEY, Texas CSR 8967  
Expiration Date: 12/31/20  
314th Official Court Reporter  
1200 Congress, 5th Floor  
24 Houston, Texas 77002  
Phone: 832-927-8471  
25 Email: Cara\_massey@justex.net

# App. I





Vernon's Texas Statutes and Codes Annotated

Family Code (Refs & Annos)

Title 5. The Parent-Child Relationship and the Suit Affecting the Parent-Child Relationship (Refs & Annos)

Subtitle E. Protection of the Child

Chapter 262. Procedures in Suit by Governmental Entity to Protect Health and Safety of Child (Refs & Annos)

Subchapter C. Adversary Hearing

V.T.C.A., Family Code § 262.201

## § 262.201. Full Adversary Hearing; Findings of the Court

Effective: September 1, 2021

[Currentness](#)

(a) In a suit filed under [Section 262.101](#) or [262.105](#), unless the child has already been returned to the parent, managing conservator, possessory conservator, guardian, caretaker, or custodian entitled to possession and the temporary order, if any, has been dissolved, a full adversary hearing shall be held not later than the 14th day after the date the child was taken into possession by the governmental entity, unless the court grants an extension under Subsection (e) or (e-1).

(a-1) to (a-4) Expired.

(a-5) Repealed by [Acts 2019, 86th Leg, ch. 467](#) (H.B. 4170), [§ 7.004\(c\)](#).

(b) Repealed by [Acts 2021, 87th Leg., ch. 8](#) (H.B. 567), [§ 13\(3\)](#).

(c) Before commencement of the full adversary hearing, the court must inform each parent not represented by an attorney of:

(1) the right to be represented by an attorney; and

(2) if a parent is indigent and appears in opposition to the suit, the right to a court-appointed attorney.

(d) If a parent claims indigence and requests the appointment of an attorney before the full adversary hearing, the court shall require the parent to complete and file with the court an affidavit of indigence. The court may consider additional evidence to determine whether the parent is indigent, including evidence relating to the parent's income, source of income, assets, property ownership, benefits paid in accordance with a federal, state, or local public assistance program, outstanding obligations, and necessary expenses and the number and ages of the parent's dependents. If the appointment of an attorney for the parent is requested, the court shall make a determination of indigence before commencement of the full adversary hearing. If the court determines the parent is indigent, the court shall appoint an attorney to represent the parent.

(e) The court may, for good cause shown, postpone the full adversary hearing for not more than seven days from the date of the attorney's appointment to provide the attorney time to respond to the petition and prepare for the hearing. The court may shorten

or lengthen the extension granted under this subsection if the parent and the appointed attorney agree in writing. If the court postpones the full adversary hearing, the court shall extend a temporary order, temporary restraining order, or attachment issued by the court under [Section 262.102\(a\)](#) for the protection of the child until the date of the rescheduled full adversary hearing.

(e-1) If a parent who is not indigent appears in opposition to the suit, the court may, for good cause shown, postpone the full adversary hearing for not more than seven days from the date of the parent's appearance to allow the parent to hire an attorney or to provide the parent's attorney time to respond to the petition and prepare for the hearing. A postponement under this subsection is subject to the limits and requirements prescribed by Subsection (e) and [Section 155.207](#).

(f) The court shall ask all parties present at the full adversary hearing whether the child or the child's family has a Native American heritage and identify any Native American tribe with which the child may be associated.

(g) In a suit filed under [Section 262.101](#) or [262.105](#), at the conclusion of the full adversary hearing, the court shall order the return of the child to the parent, managing conservator, possessory conservator, guardian, caretaker, or custodian entitled to possession from whom the child is removed unless the court finds sufficient evidence to satisfy a person of ordinary prudence and caution that:

(1) there was a danger to the physical health or safety of the child, including a danger that the child would be a victim of trafficking under [Section 20A.02](#) or [20A.03, Penal Code](#), which was caused by an act or failure to act of the person entitled to possession and for the child to remain in the home is contrary to the welfare of the child;

(2) the urgent need for protection required the immediate removal of the child and reasonable efforts, consistent with the circumstances and providing for the safety of the child, were made to eliminate or prevent the child's removal; and

(3) reasonable efforts have been made to enable the child to return home, but there is a substantial risk of a continuing danger if the child is returned home.

(g-1) In a suit filed under [Section 262.101](#) or [262.105](#), if the court does not order the return of the child under Subsection (g) and finds that another parent, managing conservator, possessory conservator, guardian, caretaker, or custodian entitled to possession did not cause the immediate danger to the physical health or safety of the child or was not the perpetrator of the neglect or abuse alleged in the suit, the court shall order possession of the child by that person unless the court finds sufficient evidence to satisfy a person of ordinary prudence and caution that, specific to each person entitled to possession:

(1) the person cannot be located after the exercise of due diligence by the Department of Family and Protective Services, or the person is unable or unwilling to take possession of the child; or

(2) reasonable efforts have been made to enable the person's possession of the child, but possession by that person presents a continuing danger to the physical health or safety of the child caused by an act or failure to act of the person, including a danger that the child would be a victim of trafficking under [Section 20A.02](#) or [20A.03, Penal Code](#).

(h) In a suit filed under [Section 262.101](#) or [262.105](#), if the court finds sufficient evidence to make the applicable finding under Subsection (g) or (g-1), the court shall issue an appropriate temporary order under Chapter 105.

(i) In determining whether there is a continuing danger to the physical health or safety of the child under Subsection (g), the court may consider whether the household to which the child would be returned includes a person who:

(1) has abused or neglected another child in a manner that caused serious injury to or the death of the other child; or

(2) has sexually abused another child.

(i-1) In making a determination whether there is an immediate danger to the physical health or safety of a child, the court shall consider the opinion of a medical professional obtained by the child's parent, managing conservator, possessory conservator, guardian, caretaker, or custodian.

(j) Repealed by [Acts 2021, 87th Leg., ch. 8](#) (H.B. 567), § 13(3).

(k) If the court finds that the child requires protection from family violence, as that term is defined by [Section 71.004](#), by a member of the child's family or household, the court shall render a protective order for the child under Title 4.<sup>1</sup>

(l) The court shall require each parent, alleged father, or relative of the child before the court to complete the proposed child placement resources form provided under [Section 261.307](#) and file the form with the court, if the form has not been previously filed with the court, and provide the Department of Family and Protective Services with information necessary to locate any other absent parent, alleged father, or relative of the child. The court shall inform each parent, alleged father, or relative of the child before the court that the person's failure to submit the proposed child placement resources form will not delay any court proceedings relating to the child.

(l-1) The court shall ask all parties present at the full adversary hearing whether:

(1) the child has had the opportunity, in a developmentally appropriate manner, to identify any adult, particularly an adult residing in the child's community, who could be a relative or designated caregiver for the child; and

(2) each individual identified by the child as a potential relative or designated caregiver is listed on the proposed child placement resources form.

(m) The court shall inform each parent in open court that parental and custodial rights and duties may be subject to restriction or to termination unless the parent or parents are willing and able to provide the child with a safe environment.

(n) If the court does not order possession of a child by a parent, managing conservator, possessory conservator, guardian, caretaker, or custodian entitled to possession under Subsection (g) or (g-1), the court shall place the child with a relative of the child unless the court finds that the placement with a relative is not in the best interest of the child.

(n-1) For a child placed with a relative of the child, the court shall inform the relative of:

(1) the option to become verified by a licensed child-placing agency to operate an agency foster home, if applicable; and

(2) the permanency care assistance program under Subchapter K, Chapter 264.<sup>2</sup>

(o) When citation by publication is needed for a parent or alleged or probable father in an action brought under this chapter because the location of the parent, alleged father, or probable father is unknown, the court may render a temporary order without delay at any time after the filing of the action without regard to whether notice of the citation by publication has been published.

(p) For the purpose of determining under Subsection (a) the 14th day after the date the child is taken into possession, a child is considered to have been taken into possession by the Department of Family and Protective Services on the expiration of the five-day period permitted under [Section 262.007\(c\)](#) or [262.110\(b\)](#), as appropriate.

(q) On receipt of a written request for possession of the child from a parent, managing conservator, possessory conservator, guardian, caretaker, or custodian entitled to possession of the child who was not located before the adversary hearing, the Department of Family and Protective Services shall notify the court and request a hearing to determine whether the parent, managing conservator, possessory conservator, guardian, caretaker, or custodian is entitled to possession of the child under Subsection (g-1).

#### Credits

Added by Acts 1995, 74th Leg., ch. 20, § 1, eff. April 20, 1995. Amended by Acts 1995, 74th Leg., ch. 751, § 107, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 575, § 21, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 600, § 5, eff. Jan. 1, 1998; Acts 1997, 75th Leg., ch. 603, § 1, eff. Jan. 1, 1998; Acts 1997, 75th Leg., ch. 752, § 3, eff. June 17, 1997; Acts 1997, 75th Leg., ch. 1022, § 77, eff. Jan. 1, 1998; Acts 1997, 75th Leg., ch. 1022, § 78, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 62, § 6.31, eff. Sept. 1, 1999; Acts 1999, 76th Leg., ch. 1150, § 20, eff. Sept. 1, 1999; Acts 1999, 76th Leg., ch. 1390, § 39, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 306, § 1, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 849, § 4, eff. Sept. 1, 2001; Acts 2005, 79th Leg., ch. 268, § 1.34(a), eff. Sept. 1, 2005; Acts 2009, 81st Leg., ch. 856, § 2, eff. Sept. 1, 2009; Acts 2013, 83rd Leg., ch. 810 (S.B. 1759), § 9, eff. Sept. 1, 2013; Acts 2015, 84th Leg., ch. 1 (S.B. 219), § 1.163, eff. April 2, 2015; Acts 2015, 84th Leg., ch. 128 (S.B. 1931), § 3, eff. Sept. 1, 2015; Acts 2015, 84th Leg., ch. 338 (H.B. 418), § 4, eff. Sept. 1, 2015; Acts 2015, 84th Leg., ch. 697 (H.B. 825), § 1, eff. Sept. 1, 2015; Acts 2017, 85th Leg., ch. 317 (H.B. 7), § 20, eff. Sept. 1, 2017; Acts 2017, 85th Leg., ch. 910 (S.B. 999), § 13, eff. Sept. 1, 2017; Acts 2019, 86th Leg., ch. 375 (H.B. 1884), § 2, eff. Sept. 1, 2019; Acts 2019, 86th Leg., ch. 467 (H.B. 4170), § 7.004, eff. Sept. 1, 2019; Acts 2019, 86th Leg., ch. 1294 (H.B. 3390), § 7, eff. June 14, 2019; Acts 2021, 87th Leg., ch. 8 (H.B. 567), §§ 7, 13(3), eff. Sept. 1, 2021; Acts 2021, 87th Leg., ch. 1047 (S.B. 1578), § 7, eff. Sept. 1, 2021.

#### Notes of Decisions (49)

#### Footnotes

1 V.T.C.A., Family Code § 71.001 et seq.

2 V.T.C.A., Family Code § 264.851 et seq.

V. T. C. A., Family Code § 262.201, TX FAMILY § 262.201

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Subtitle E. Protection of the Child

Chapter 262. Procedures in Suit by Governmental Entity to Protect Health and Safety of Child (Refs & Annos)

Subchapter B. Taking Possession of Child

V.T.C.A., Family Code § 262.102

## § 262.102. Emergency Order Authorizing Possession of Child

Effective: September 1, 2021

[Currentness](#)

(a) Before a court may, without prior notice and a hearing, issue a temporary order for the conservatorship of a child under [Section 105.001\(a\)\(1\)](#) or a temporary restraining order or attachment of a child authorizing a governmental entity to take possession of a child in a suit brought by a governmental entity, the court must find that:

(1) there is an immediate danger to the physical health or safety of the child or the child has been a victim of neglect or sexual abuse;

(2) continuation in the home would be contrary to the child's welfare;

(3) there is no time, consistent with the physical health or safety of the child and the nature of the emergency, for a full adversary hearing under Subchapter C;<sup>1</sup> and

(4) reasonable efforts, consistent with the circumstances and providing for the safety of the child, were made to prevent or eliminate the need for removal of the child.

(b) In determining whether there is an immediate danger to the physical health or safety of a child, the court may consider whether the child's household includes a person who has:

(1) abused or neglected another child in a manner that caused serious injury to or the death of the other child; or

(2) sexually abused another child.

(b-1) A determination under this section that there is an immediate danger to the physical health or safety of a child or that the child has been a victim of neglect or sexual abuse may not be based solely on the opinion of a medical professional under contract with the Department of Family and Protective Services who did not conduct a physical examination of the child.

(c) If, based on the recommendation of or a request by the Department of Family and Protective Services, the court finds that child abuse or neglect has occurred and that the child requires protection from family violence by a member of the child's family or household, the court shall render a temporary order under Title 4<sup>2</sup> for the protection of the child. In this subsection, “family violence” has the meaning assigned by [Section 71.004](#).

(d) The temporary order, temporary restraining order, or attachment of a child rendered by the court under Subsection (a) must contain the following statement prominently displayed in boldface type, capital letters, or underlined:

“YOU HAVE THE RIGHT TO BE REPRESENTED BY AN ATTORNEY. IF YOU ARE INDIGENT AND UNABLE TO AFFORD AN ATTORNEY, YOU HAVE THE RIGHT TO REQUEST THE APPOINTMENT OF AN ATTORNEY BY CONTACTING THE COURT AT [ADDRESS], [TELEPHONE NUMBER]. IF YOU APPEAR IN OPPOSITION TO THE SUIT, CLAIM INDIGENCE, AND REQUEST THE APPOINTMENT OF AN ATTORNEY, THE COURT WILL REQUIRE YOU TO SIGN AN AFFIDAVIT OF INDIGENCE AND THE COURT MAY HEAR EVIDENCE TO DETERMINE IF YOU ARE INDIGENT. IF THE COURT DETERMINES YOU ARE INDIGENT AND ELIGIBLE FOR APPOINTMENT OF AN ATTORNEY, THE COURT WILL APPOINT AN ATTORNEY TO REPRESENT YOU.”

#### Credits

Added by Acts 1995, 74th Leg., ch. 20, § 1, eff. April 20, 1995. Amended by Acts 1995, 74th Leg., ch. 751, § 104, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 752, § 2, eff. June 17, 1997; Acts 1999, 76th Leg., ch. 1150, § 15, eff. Sept. 1, 1999; Acts 1999, 76th Leg., ch. 1390, § 34, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 849, § 2, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 1276, § 7.002(m), eff. Sept. 1, 2003; Acts 2013, 83rd Leg., ch. 810 (S.B. 1759), § 7, eff. Sept. 1, 2013; Acts 2015, 84th Leg., ch. 1 (S.B. 219), § 1.155, eff. April 2, 2015; Acts 2017, 85th Leg., ch. 910 (S.B. 999), § 6, eff. Sept. 1, 2017; Acts 2021, 87th Leg., ch. 1047 (S.B. 1578), § 5, eff. Sept. 1, 2021.

#### Notes of Decisions (6)

#### Footnotes

1 V.T.C.A., Family Code § 262.201 et seq.

2 V.T.C.A., Family Code § 71.001 et seq.

V. T. C. A., Family Code § 262.102, TX FAMILY § 262.102

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Chapter 262. Procedures in Suit by Governmental Entity to Protect Health and Safety of Child (Refs & Annos)

Subchapter B. Taking Possession of Child

V.T.C.A., Family Code § 262.105

## § 262.105. Filing Petition After Taking Possession of Child in Emergency

Effective: September 1, 2017

[Currentness](#)

(a) When a child is taken into possession without a court order, the person taking the child into possession, without unnecessary delay, shall:

- (1) file a suit affecting the parent-child relationship;
- (2) request the court to appoint an attorney ad litem for the child; and
- (3) request an initial hearing to be held by no later than the first business day after the date the child is taken into possession.

(b) An original suit filed by a governmental entity after taking possession of a child under [Section 262.104](#) must be supported by an affidavit stating facts sufficient to satisfy a person of ordinary prudence and caution that:

(1) based on the affiant's personal knowledge or on information furnished by another person corroborated by the affiant's personal knowledge, one of the following circumstances existed at the time the child was taken into possession:

- (A) there was an immediate danger to the physical health or safety of the child;
- (B) the child was the victim of sexual abuse or of trafficking under [Section 20A.02](#) or [20A.03, Penal Code](#);
- (C) the parent or person who had possession of the child was using a controlled substance as defined by Chapter 481, Health and Safety Code, and the use constituted an immediate danger to the physical health or safety of the child; or
- (D) the parent or person who had possession of the child permitted the child to remain on premises used for the manufacture of methamphetamine; and

(2) based on the affiant's personal knowledge:



(A) continuation of the child in the home would have been contrary to the child's welfare;

(B) there was no time, consistent with the physical health or safety of the child, for a full adversary hearing under Subchapter C;<sup>1</sup> and

(C) reasonable efforts, consistent with the circumstances and providing for the safety of the child, were made to prevent or eliminate the need for the removal of the child.

#### Credits

Added by Acts 1995, 74th Leg., ch. 20, § 1, eff. April 20, 1995. Amended by Acts 2001, 77th Leg., ch. 809, § 2, eff. Sept. 1, 2001; Acts 2015, 84th Leg., ch. 1 (S.B. 219), § 1.158, eff. April 2, 2015; Acts 2015, 84th Leg., ch. 944 (S.B. 206), § 86(13), eff. Sept. 1, 2015; Acts 2017, 85th Leg., ch. 910 (S.B. 999), § 8, eff. Sept. 1, 2017.

#### Notes of Decisions (1)

#### Footnotes

<sup>1</sup> V.T.C.A., Family Code § 262.201 et seq.

V. T. C. A., Family Code § 262.105, TX FAMILY § 262.105

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Chapter 263. Review of Placement of Children Under Care of Department of Family and Protective Services  
(Refs & Annos)

Subchapter B. Service Plan and Visitation Plan (Refs & Annos)

V.T.C.A., Family Code § 263.102

## § 263.102. Service Plan; Contents

Effective: September 1, 2015

[Currentness](#)

(a) The service plan must:

- (1) be specific;
- (2) be in writing in a language that the parents understand, or made otherwise available;
- (3) be prepared by the department in conference with the child's parents;
- (4) state appropriate deadlines;
- (5) specify the primary permanency goal and at least one alternative permanency goal;
- (6) state steps that are necessary to:
  - (A) return the child to the child's home if the placement is in foster care;
  - (B) enable the child to remain in the child's home with the assistance of a service plan if the placement is in the home under the department's supervision; or
  - (C) otherwise provide a permanent safe placement for the child;
- (7) state the actions and responsibilities that are necessary for the child's parents to take to achieve the plan goal during the period of the service plan and the assistance to be provided to the parents by the department or other agency toward meeting that goal;

(8) state any specific skills or knowledge that the child's parents must acquire or learn, as well as any behavioral changes the parents must exhibit, to achieve the plan goal;

(9) state the actions and responsibilities that are necessary for the child's parents to take to ensure that the child attends school and maintains or improves the child's academic compliance;

(10) state the name of the person with the department whom the child's parents may contact for information relating to the child if other than the person preparing the plan; and

(11) prescribe any other term or condition that the department determines to be necessary to the service plan's success.

(b) The service plan shall include the following statement:

TO THE PARENT: THIS IS A VERY IMPORTANT DOCUMENT. ITS PURPOSE IS TO HELP YOU PROVIDE YOUR CHILD WITH A SAFE ENVIRONMENT WITHIN THE REASONABLE PERIOD SPECIFIED IN THE PLAN. IF YOU ARE UNWILLING OR UNABLE TO PROVIDE YOUR CHILD WITH A SAFE ENVIRONMENT, YOUR PARENTAL AND CUSTODIAL DUTIES AND RIGHTS MAY BE RESTRICTED OR TERMINATED OR YOUR CHILD MAY NOT BE RETURNED TO YOU. THERE WILL BE A COURT HEARING AT WHICH A JUDGE WILL REVIEW THIS SERVICE PLAN.

(c) Repealed by [Acts 2015, 84th Leg., ch. 944](#) (S.B. 206), § 86(16).

(d) The department or other authorized entity must write the service plan in a manner that is clear and understandable to the parent in order to facilitate the parent's ability to follow the requirements of the service plan.

(e) Regardless of whether the goal stated in a child's service plan as required under Subsection (a)(5) is to return the child to the child's parents or to terminate parental rights and place the child for adoption, the department shall concurrently provide to the child and the child's family, as applicable:

(1) time-limited family reunification services as defined by [42 U.S.C. Section 629a](#) for a period not to exceed the period within which the court must render a final order in or dismiss the suit affecting the parent-child relationship with respect to the child as provided by Subchapter E;<sup>1</sup> and

(2) adoption promotion and support services as defined by [42 U.S.C. Section 629a](#).

(f) The department shall consult with relevant professionals to determine the skills or knowledge that the parents of a child under two years of age should learn or acquire to provide a safe placement for the child. The department shall incorporate those skills and abilities into the department's service plans, as appropriate.

(g) Repealed by [Acts 2015, 84th Leg., ch. 944](#) (S.B. 206), § 86(16).

### Credits

Added by Acts 1995, 74th Leg., ch. 20, § 1, eff. April 20, 1995. Amended by Acts 2005, 79th Leg., ch. 268, § 1.38(a), eff. Sept. 1, 2005; Acts 2007, 80th Leg., ch. 1406, § 8, eff. Sept. 1, 2007; Acts 2015, 84th Leg., ch. 1 (S.B. 219), § 1.174, eff. April 2, 2015; Acts 2015, 84th Leg., ch. 944 (S.B. 206), §§ 32, 86(16), eff. Sept. 1, 2015.

### Notes of Decisions (5)

### Footnotes

1 V.T.C.A., Family Code § 263.401 et seq.

V. T. C. A., Family Code § 263.102, TX FAMILY § 263.102

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Subchapter D. Permanency Hearings

V.T.C.A., Family Code § 263.304

## § 263.304. Initial Permanency Hearing; Time

Effective: September 1, 2001

[Currentness](#)

(a) Not later than the 180th day after the date the court renders a temporary order appointing the department as temporary managing conservator of a child, the court shall hold a permanency hearing to review the status of, and permanency plan for, the child to ensure that a final order consistent with that permanency plan is rendered before the date for dismissal of the suit under this chapter.

(b) The court shall set a final hearing under this chapter on a date that allows the court to render a final order before the date for dismissal of the suit under this chapter. Any party to the suit or an attorney ad litem for the child may seek a writ of mandamus to compel the court to comply with the duties imposed by this subsection.

### Credits

Added by Acts 1995, 74th Leg., ch. 20, § 1, eff. April 20, 1995. Amended by Acts 1995, 74th Leg., ch. 751, § 113, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 600, § 14, eff. Jan. 1, 1998; Acts 1997, 75th Leg., ch. 603, § 9, eff. Jan. 1, 1998; Acts 1997, 75th Leg., ch. 1022, § 87, eff. Jan. 1, 1998; Acts 2001, 77th Leg., ch. 1090, § 7, eff. Sept. 1, 2001.

### [Notes of Decisions \(2\)](#)

V. T. C. A., Family Code § 263.304, TX FAMILY § 263.304

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Chapter 263. Review of Placement of Children Under Care of Department of Family and Protective Services  
(Refs & Annos)

Subchapter C. Status Hearing

V.T.C.A., Family Code § 263.202

## § 263.202. Status Hearing; Findings

Effective: September 1, 2021

[Currentness](#)

(a) If all persons entitled to citation and notice of a status hearing under this chapter were not served, the court shall make findings as to whether:

(1) the department has exercised due diligence to locate all necessary persons, including an alleged father of the child, regardless of whether the alleged father is registered with the registry of paternity under [Section 160.402](#); and

(2) the child and each parent, alleged father, or relative of the child before the court have furnished to the department all available information necessary to locate an absent parent, alleged father, or relative of the child through exercise of due diligence.

(b) Except as otherwise provided by this subchapter, a status hearing shall be limited to matters related to the contents and execution of the service plan filed with the court. The court shall review the service plan that the department filed under this chapter for reasonableness, accuracy, and compliance with requirements of court orders and make findings as to whether:

(1) a plan that has the goal of returning the child to the child's parents adequately ensures that reasonable efforts are made to enable the child's parents to provide a safe environment for the child;

(2) the child's parents have reviewed and understand the plan and have been advised that unless the parents are willing and able to provide the child with a safe environment, even with the assistance of a service plan, within the reasonable period of time specified in the plan, the parents' parental and custodial duties and rights may be subject to restriction or to termination under this code or the child may not be returned to the parents;

(3) the plan is narrowly tailored to address any specific issues identified by the department; and

(4) the child's parents and the representative of the department have signed the plan.

(b-1) After reviewing the service plan and making any necessary modifications, the court shall incorporate the service plan into the orders of the court and may render additional appropriate orders to implement or require compliance with the plan.

(c) Repealed by [Acts 2011, 82nd Leg., ch. 1071](#) (S.B. 993), § 9.

(d) Repealed by [Acts 2011, 82nd Leg., ch. 1071](#) (S.B. 993), § 9.

(e) At the status hearing, the court shall make a finding as to whether the court has identified the individual who has the right to consent for the child under [Section 266.003](#).

(f) The court shall review the report filed by the department under [Section 263.007](#) and inquire into the sufficiency of the department's efforts to identify, locate, and provide information to each adult described by [Section 262.1095\(a\)](#). The court shall order the department to make further efforts to identify, locate, and provide information to each adult described by [Section 262.1095\(a\)](#) if the court determines that the department's efforts have not been sufficient.

(f-1) The court shall ask all parties present at the status hearing whether the child or the child's family has a Native American heritage and identify any Native American tribe with which the child may be associated.

(g) The court shall give the child's parents an opportunity to comment on the service plan.

(h) If a proposed child placement resources form as described by [Section 261.307](#) has not been submitted, the court shall require each parent, alleged father, or other person to whom the department is required to provide a form to submit a completed form. The court shall ask all parties present at the status hearing whether:

(1) the child has had the opportunity, in a developmentally appropriate manner, to identify any adult, particularly an adult residing in the child's community, who could be a relative or designated caregiver for the child; and

(2) each individual identified by the child as a potential relative or designated caregiver is listed on the proposed child placement resources form.

(i) For a child placed with a relative of the child, the court shall inform the relative of:

(1) the option to become verified by a licensed child-placing agency to operate an agency foster home, if applicable; and

(2) the permanency care assistance program under Subchapter K, Chapter 264.<sup>1</sup>

#### Credits

Added by [Acts 1995, 74th Leg., ch. 20, § 1, eff. April 20, 1995](#). Amended by [Acts 1995, 74th Leg., ch. 751, § 111, eff. Sept. 1, 1995](#); [Acts 1999, 76th Leg., ch. 1150, § 27, eff. Sept. 1, 1999](#); [Acts 1999, 76th Leg., ch. 1390, § 46, eff. Sept. 1, 1999](#); [Acts](#)

2001, 77th Leg., ch. 306, § 2, eff. Sept. 1, 2001; Acts 2005, 79th Leg., ch. 268, §§ 1.38(b), 1.39, eff. Sept. 1, 2005; Acts 2011, 82nd Leg., ch. 1071 (S.B. 993), §§ 7, 9, eff. Sept. 1, 2011; Acts 2015, 84th Leg., ch. 1 (S.B. 219), § 1.177, eff. April 2, 2015; Acts 2015, 84th Leg., ch. 697 (H.B. 825), § 2, eff. Sept. 1, 2015; Acts 2019, 86th Leg., ch. 375 (H.B. 1884), § 3, eff. Sept. 1, 2019; Acts 2019, 86th Leg., ch. 1294 (H.B. 3390), § 9, eff. June 14, 2019; Acts 2021, 87th Leg., ch. 269 (H.B. 3041), § 3, eff. Sept. 1, 2021.

#### Notes of Decisions (2)

#### Footnotes

1 V.T.C.A., Family Code § 264.851 et seq.

V. T. C. A., Family Code § 263.202, TX FAMILY § 263.202

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Subchapter D. Permanency Hearings

V.T.C.A., Family Code § 263.306

## § 263.306. Permanency Hearings Before Final Order

Effective: September 1, 2019

[Currentness](#)

(a) Repealed by [Acts 2017, 85th Leg., ch. 324 \(S.B. 1488\)](#), § 7.009.

(a-1) At each permanency hearing before a final order is rendered, the court shall:

(1) identify all persons and parties present at the hearing;

(2) review the efforts of the department or other agency in:

(A) locating and requesting service of citation on all persons entitled to service of citation under [Section 102.009](#); and

(B) obtaining the assistance of a parent in providing information necessary to locate an absent parent, alleged father, relative of the child, or other adult identified by the child as a potential relative or designated caregiver;

(3) ask all parties present whether the child or the child's family has a Native American heritage and identify any Native American tribe with which the child may be associated;

(4) review the extent of the parties' compliance with temporary orders and the service plan and the extent to which progress has been made toward alleviating or mitigating the causes necessitating the placement of the child in foster care;

(5) review the permanency progress report to determine:

(A) the safety and well-being of the child and whether the child's needs, including any medical or special needs, are being adequately addressed;

(B) the continuing necessity and appropriateness of the placement of the child, including with respect to a child who has been placed outside of this state, whether the placement continues to be in the best interest of the child;

(C) the appropriateness of the primary and alternative permanency goals for the child developed in accordance with department rule and whether the department has made reasonable efforts to finalize the permanency plan, including the concurrent permanency goals, in effect for the child;

(D) whether the child has been provided the opportunity, in a developmentally appropriate manner, to express the child's opinion on any medical care provided;

(E) whether the child has been provided the opportunity, in a developmentally appropriate manner, to identify any adults, particularly an adult residing in the child's community, who could be a relative or designated caregiver for the child;

(F) for a child receiving psychotropic medication, whether the child:

(i) has been provided appropriate nonpharmacological interventions, therapies, or strategies to meet the child's needs; or

(ii) has been seen by the prescribing physician, physician assistant, or advanced practice nurse at least once every 90 days;

(G) whether an education decision-maker for the child has been identified, the child's education needs and goals have been identified and addressed, and there have been major changes in the child's school performance or there have been serious disciplinary events;

(H) for a child 14 years of age or older, whether services that are needed to assist the child in transitioning from substitute care to independent living are available in the child's community; and

(I) for a child whose permanency goal is another planned permanent living arrangement:

(i) the desired permanency outcome for the child, by asking the child;

(ii) whether, as of the date of the hearing, another planned permanent living arrangement is the best permanency plan for the child and, if so, provide compelling reasons why it continues to not be in the best interest of the child to:

(a) return home;

(b) be placed for adoption;

(c) be placed with a legal guardian; or

(d) be placed with a fit and willing relative;

(iii) whether the department has conducted an independent living skills assessment under [Section 264.121\(a-3\)](#);

(iv) whether the department has addressed the goals identified in the child's permanency plan, including the child's housing plan, and the results of the independent living skills assessment;

(v) if the youth is 16 years of age or older, whether there is evidence that the department has provided the youth with the documents and information listed in [Section 264.121\(e\)](#); and

(vi) if the youth is 18 years of age or older or has had the disabilities of minority removed, whether there is evidence that the department has provided the youth with the documents and information listed in [Section 264.121\(e-1\)](#);

(6) determine whether to return the child to the child's parents if the child's parents are willing and able to provide the child with a safe environment and the return of the child is in the child's best interest;

(7) estimate a likely date by which the child may be returned to and safely maintained in the child's home, placed for adoption, or placed in permanent managing conservatorship; and

(8) announce in open court the dismissal date and the date of any upcoming hearings.

(b) Repealed by [Acts 2015, 84th Leg., ch. 944](#) (S.B. 206), § 86(18).

(c) In addition to the requirements of Subsection (a-1), at each permanency hearing before a final order is rendered the court shall review the department's efforts to:

(1) ensure that the child has regular, ongoing opportunities to engage in age-appropriate normalcy activities, including activities not listed in the child's service plan; and

(2) for a child placed with a relative of the child or other designated caregiver, inform the caregiver of:

(A) the option to become verified by a licensed child-placing agency to operate an agency foster home, if applicable; and

(B) the permanency care assistance program under Subchapter K, Chapter 264.

### Credits

Added by Acts 1995, 74th Leg., ch. 20, § 1, eff. April 20, 1995. Amended by Acts 1995, 74th Leg., ch. 751, § 114, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 600, § 16, eff. Jan. 1, 1998; Acts 1997, 75th Leg., ch. 603, § 11, eff. Jan. 1, 1998; Acts 1997, 75th Leg., ch. 1022, § 89, eff. Jan. 1, 1998; Acts 1999, 76th Leg., ch. 1390, § 47, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 306, § 3, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 849, § 7, eff. Sept. 1, 2001; Acts 2009, 81st Leg., ch. 108, § 8, eff. May 23, 2009; Acts 2009, 81st Leg., ch. 1372, § 7, eff. June 19, 2009; Acts 2013, 83rd Leg., ch. 191 (S.B. 352), § 5, eff. Sept. 1, 2013; Acts 2013, 83rd Leg., ch. 204 (H.B. 915), § 4, eff. Sept. 1, 2013; Acts 2013, 83rd Leg., ch. 688 (H.B. 2619), § 5, eff. Sept. 1, 2013; Acts 2015, 84th Leg., ch. 1 (S.B. 219), § 1.180, eff. April 2, 2015; Acts 2015, 84th Leg., ch. 262 (S.B. 1407), § 2, eff. Sept. 1, 2015; Acts 2015, 84th Leg., ch. 697 (H.B. 825), § 3, eff. Sept. 1, 2015; Acts 2015, 84th Leg., ch. 944 (S.B. 206), §§ 35, 36, 86(17), 86(18), eff. Sept. 1, 2015; Acts 2017, 85th Leg., ch. 324 (S.B. 1488), § 7.009, eff. Sept. 1, 2017; Acts 2017, 85th Leg., ch. 937 (S.B. 1758), § 3, eff. Sept. 1, 2017; Acts 2019, 86th Leg., ch. 375 (H.B. 1884), § 4, eff. Sept. 1, 2019; Acts 2019, 86th Leg., ch. 1294 (H.B. 3390), § 10, eff. June 14, 2019.

V. T. C. A., Family Code § 263.306, TX FAMILY § 263.306

Current through the end of the 2021 Regular and Called Sessions of the 87th Legislature.

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Vernon's Texas Statutes and Codes Annotated

Family Code (Refs & Annos)

Title 5. The Parent-Child Relationship and the Suit Affecting the Parent-Child Relationship (Refs & Annos)

Subtitle E. Protection of the Child

Chapter 263. Review of Placement of Children Under Care of Department of Family and Protective Services  
(Refs & Annos)

Subchapter A. General Provisions

V.T.C.A., Family Code § 263.002

## § 263.002. Review of Placements by Court; Findings

Effective: September 1, 2021

[Currentness](#)

(a) In a suit affecting the parent-child relationship in which the department has been appointed by the court or designated in an affidavit of relinquishment of parental rights as the temporary or permanent managing conservator of a child, the court shall hold a hearing to review:

(1) the conservatorship appointment and substitute care; and

(2) for a child committed to the Texas Juvenile Justice Department, the child's commitment in the Texas Juvenile Justice Department or release under supervision by the Texas Juvenile Justice Department.

(b) At each permanency hearing under this chapter, the court shall review the placement of each child in the temporary managing conservatorship of the department who is not placed with a relative caregiver or designated caregiver as defined by [Section 264.751](#). The court shall include in its findings a statement whether the department:

(1) asked the child in a developmentally appropriate manner to identify any adult, particularly an adult residing in the child's community, who could be a relative or designated caregiver for the child; and

(2) placed the child with a relative or designated caregiver.

(c) At each permanency hearing before the final order, the court shall review the placement of each child in the temporary managing conservatorship of the department who has not been returned to the child's home. At the end of the hearing, the court shall order the department to return the child to the child's parent or parents unless the court finds, with respect to each parent, that:

(1) there is a continuing danger to the physical health or safety of the child; and

(2) returning the child to the child's parent or parents is contrary to the welfare of the child .

(d) This section does not prohibit the court from rendering an order under [Section 263.403](#).

**Credits**

Added by Acts 1995, 74th Leg., ch. 20, § 1, eff. April 20, 1995. Amended by Acts 1995, 74th Leg., ch. 751, § 109, eff. Sept. 1, 1995; Acts 2009, 81st Leg., ch. 108, § 5, eff. May 23, 2009; Acts 2015, 84th Leg., ch. 1 (S.B. 219), § 1.171, eff. April 2, 2015; Acts 2017, 85th Leg., ch. 317 (H.B. 7), § 23, eff. Sept. 1, 2017; Acts 2019, 86th Leg., ch. 1294 (H.B. 3390), § 8, eff. June 14, 2019; Acts 2021, 87th Leg., ch. 8 (H.B. 567), § 8, eff. Sept. 1, 2021.

[Notes of Decisions \(1\)](#)

V. T. C. A., Family Code § 263.002, TX FAMILY § 263.002

Current through the end of the 2021 Regular and Called Sessions of the 87th Legislature.