

CAUSE NO. D-1-FM-07-003213

and CAUSE NO. 121,012

IN RE:

Texas Department of Family and Protective Services Litigation

§ IN THE DISTRICT COURTS OF  
§ TRAVIS COUNTY, TEXAS  
§  
§ 419<sup>th</sup> JUDICIAL DISTRICT

Filed in The District Court of Travis County, Texas

OCT 18 2007  
At: [Signature] Rodriguez-Mendoza, Clerk

**FIRST AMENDED STANDING ORDER**

The Court finds that the Standing Order signed on June 21, 2007 and filed under this cause number should be amended by amending, in part, Sections 4b, 4c, and 4d and by adding a new Section 4c. The Court finds that these amendments, as made in the following Court Orders, are intended to clarify the obligations of the Texas Department of Family and Protective Services (hereinafter referred to as "TDFPS") under Sections 264.107(d), (e), and (g) of the Texas Family Code and improve the compliance of TDFPS with those sections.

Having considered the type and number of child abuse and neglect cases pending in Travis County, and after reviewing the transcripts from the review hearings held on May 18, 2007 in Cause No. D-1-FM-02-003770, In re J.C., and Cause No. D-1-FM-99-010430, In re M.L., the Court finds that good cause exists for the entry of this Order. The Court makes this Order on its own initiative. In making this Order, the Court has taken into consideration, among other things, the best interest of the child or children whose lives may be affected by the terms of this Order, the rights of the parent or parents whose lives may be affected by the terms of this Order, the publicly-funded nature of this special statutory litigation, and the need for the effective and efficient administration of justice.

This Order is intended to facilitate the administration of child abuse and neglect cases in Travis County Civil District Courts (hereinafter referred to as "Travis County CPS cases") by

reducing multiple filings and hearings regarding common systemic issues related to cases involving allegations of child abuse and/or neglect asserted by TDFPS filed in the Travis County Civil District Courts. This Order is intended to create a central repository for certain limited filings and is intended to set out Orders for the orderly disposition, review and management of the cases involving the care and welfare of children as a whole involved in a Travis County CPS case. This Order shall apply to all Travis County CPS cases, on file or to be filed as of **November 1, 2007** in the Civil District Courts of Travis County in which a claim of abuse or neglect has been asserted by TDFPS. **Beginning on November 1, 2007, this First Amended Standing Order supercedes the Standing Order signed on June 21, 2007.** However, nothing in this Order shall preclude a party from filing with the Court a request to be excluded from the terms of this Standing Order for good cause shown.

#### **I. PROCEDURES**

1. The District Clerk of Travis County shall maintain a file entitled "In Re: Texas Department of Family and Protective Services," which may be referred to as the "Master CPS File." Instruments applicable to all Travis County CPS cases and pertaining to common system-wide issues shall be filed in such file.

2. Service of Parties in Matters to be heard in the Master CPS File. In order to notice a matter of systemic concern to the Travis County CPS cases, a party to a Travis County CPS case must provide notice to (1) the Travis County District Attorney's office at their then current address by serving the District Attorney and (2) the Assistant District Attorney then in charge of the division of the office in charge of the Travis County CPS cases. The party will further serve the (3) presiding judge of the Travis County Civil District Judges, (4) the General

Counsel for the TDPRS, (5) the lead attorney for the Children's Rights Clinic at the University of Texas Law School, (6) the President of the Court Appointed Family Advocates section of the Austin Bar Association and (7) the Executive Director of CASA of Travis County, Texas. Each party entitled to notice pursuant to this section of this Standing Order is to be served at their current address at the time notice is given.

3. All motions and other instruments that apply to all Travis County CPS cases shall be filed in the Master CPS File ONLY and will be captioned "In Re: Texas Department of Family and Protective Services Litigation" and bear the name of the motion. A motion or other instrument filed in the Master CPS File is deemed filed in each and every Travis County CPS file to which it may be applicable, and is incorporated by reference into these files for all purposes. The resulting Order shall control all Travis County CPS cases, unless otherwise specifically excluded and stated in the resulting Order. Case specific Motions shall be filed in the applicable case file and should not be filed in the "In Re: Texas Department of Family and Protective Services Litigation" file.

## II. ORDERS

4. The Court Orders as follows:

a. No Placement in CPS offices: No child who is the subject of a Travis County CPS case shall be placed for an overnight stay in the offices of the TDFPS, since such placement is not in the best interest of the child, is not appropriate for meeting the child's needs, and is not the least restrictive environment consistent with the best interest of the child. The only limited exception to placement in the offices of TDFPS would be in an emergency situation involving the *initial* removal of a child/children from their home as a result of such an immediate danger to

the physical health or safety of the child that remaining in the home would be contrary to the child's welfare. In such an emergency situation arising out of an *initial* removal of a child from their home, the placement in the TDFPS offices should be for no more than eight (8) hours, during which time the TDFPS shall obtain appropriate and safe placement for the child and/or children.

b. Agreement Needed Prior to Modifying Placement (Non-emergency modifications). No placement of a child that has been previously Court approved may be modified by TDFPS, except in an emergency (see section 4c below for provisions related to emergency modifications of placement), without first notifying the child's attorney and guardian *ad litem*, if appointed. Notice of a proposed change of placement must be made at least three business days in advance of the placement change and written agreement of the child's attorney and guardian *ad litem*, if appointed, must be obtained prior to the placement change; otherwise TDFPS must seek leave of Court prior to any modification of an existing placement. If the child has no attorney or guardian *ad litem*, TDFPS must seek leave of Court before modifying a placement previously approved by the Court.

c. Emergency Modifications of Placement.

(i) In this section, "emergency" means there exists (1) an immediate danger to the physical health or safety of the child; or (2) an imminent, substantial risk of harm to the child or involving the child. "Emergency" includes but is not limited to an event resulting in medical or psychiatric hospitalization.

(ii) In the event of an emergency, TDFPS may modify a previously approved placement without first obtaining approval of other parties or the Court. TDFPS shall notify and

consult the child's attorney and guardian *ad litem*, if appointed, as soon as possible under the circumstances. Emergency placement decisions made by TDFPS are subject to applicable state and federal laws, including Sections 264.107(d), (e), and (g) of the Texas Family Code.

(iii) Not later than three business days after the emergency modification of a placement under this section, TDFPS must obtain written agreement to the placement modification from the child's attorney and guardian *ad litem*, if appointed. If no affirmative, written agreement is obtained within three business days, TDFPS must seek leave of Court to approve the change in placement not later than five business days after the emergency modification. In the event the child has no attorney or guardian *ad litem*, TDFPS must seek leave of Court not later than three business days after the emergency modification of placement to obtain approval of the modified placement.

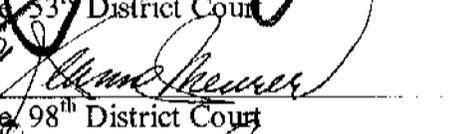
d. Changes in Levels of Care by Texas Youth for Tomorrow or subsequent contractor. TDFPS must notify the child's attorney, the child's guardian *ad litem*, and any attorneys representing any parents or guardians of the child in the Travis County CPS case (hereinafter referred to as "Individuals Entitled to Notice") of any changes in level of care made by Texas Youth for Tomorrow (hereinafter referred to as "YFT"), TDFPS, or the subsequent contractors of TDFPS who evaluate and modify levels of care of children in the care of TDFPS, if such change will result in the need to modify placement of the child. Reasonable notice must be provided by TDFPS sufficient to allow the Individuals Entitled to Notice to have adequate time to participate in the appeal process related to the change in level of care. Since the YFT appeal period is currently ten days, TDFPS is ordered to provide the Individuals Entitled to Notice with the change in level of care within three business days of notice to TDFPS from YFT.

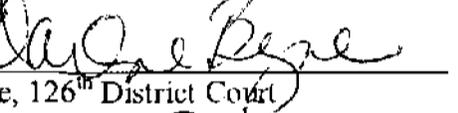
In the event there are no Individuals Entitled to Notice, TDFPS must provide notice to the Court within three business days from notice by YFT of any change in level of care and seek a review hearing prior to any change in placement occurring as a result of the YFT change in level of care.

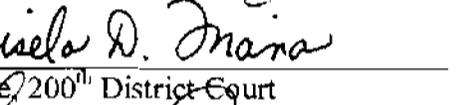
e. Incorporation by Reference. The Court further Orders that, beginning on November 1, 2007, any written Court order in a Travis County CPS case that expressly incorporates by reference the Standing Order signed on June 21, 2007 is, instead, subject to each of the terms of this First Amended Standing Order.

SIGNED this the 17<sup>th</sup> day of October, 2007.

  
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Judge, 53<sup>rd</sup> District Court

  
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Judge, 98<sup>th</sup> District Court

  
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Judge, 126<sup>th</sup> District Court

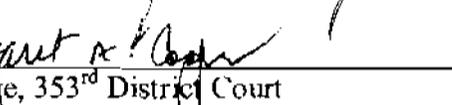
  
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Judge, 201<sup>st</sup> District Court

  
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Judge, 250<sup>th</sup> District Court

  
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Judge, 261<sup>st</sup> District Court

  
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Judge, 345<sup>th</sup> District Court

  
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Judge, 353<sup>rd</sup> District Court

  
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Judge, 419<sup>th</sup> District Court