

Family Visitation in Child Protective Services Cases



 Children's
Commission

SUPREME COURT OF TEXAS PERMANENT JUDICIAL
COMMISSION FOR CHILDREN, YOUTH AND FAMILIES

Family Visitation Round Table

On March 1, 2013, with the help of the Texas Department of Family and Protective Services (DFPS), the Center for Public Policy Priorities (CPPP), and Casey Family Programs, the Permanent Judicial Commission for Children, Youth and Families (Children's Commission) held a round table discussion on family visitation in Child Protective Services (CPS) cases. The round table brought together judges from across the state, representatives of DFPS and CPS, Court Appointed Special Advocates (CASA), prosecutors, attorneys, former foster youth, foster parents, biological parents, and parent advocates involved in CPS cases. The purpose of the round table was to help advise DFPS and its stakeholders on moving from the traditional one-size-fits-all approach to family visitation to one that serves the individualized needs of children and families. The discussion focused on the importance of visits between parents and the children who have been removed from their care; the motivation and punishment aspects of visitation; the frequency, supervision, and location of visits; and the development of a plan that both embodies the elements that guide families and advocates toward an outcome that serves the child's best interest and recognizes the parents' rights to information, access, and possession.

The Children's Commission formed a workgroup to plan the round table and the workgroup designed and administered three surveys that were distributed in advance of the July round table: 1) CPS Organizational Self Study on Visitation Policy and Practice; 2) Child Placing Agency (CPA) Organizational Self-Study; and 3) Stakeholder Survey on Parent, Child and Sibling Visits.^{1,2,3} Each survey was designed to elicit information about CPS and CPA organizational structures that support family visitation, as well as attitudes and feelings toward frequency, location, and supervision of visits; parental behavior during and between visits; and myths regarding perceived barriers to visitation frequency and quality. The Children's Commission received one response from CPS as an organization, 56 CPAs, and over 800 stakeholders who identified themselves as judges, attorneys, CASA volunteers and supervisors, foster parents, foster care alumni, parent advocates, parents, and relatives.

In advance of the round table, each participant was provided a *Practice Guide to Support Lasting Reunification and Preserving Family Connections for Children in Foster Care* (Minnesota Guide) published by the Minnesota Department of Human Services, Child Safety and Permanency Division.⁴ Ms. Katie Compton and Ms. Stephanie Sifuentes (Compton-Sifuentes) opened the round table with a presentation on Best Practices for Visitation and Family Time.⁵

¹ Child Protective Services (CPS) Organizational Survey, <http://texaschildrenscommission.gov/media/16846/Completed%20CPS%20Visitation%20Policy%20and%20Practice%20Survey.pdf> (last visited [July 12, 2013]).

² Child Placing Agency (CPA) Organizational Survey, <http://texaschildrenscommission.gov/media/16849/CPA%20Organizational%20Survey%20Summary.pdf> (last visited [July 12, 2013]).

³ Visitation Round Table Stakeholder Survey, <http://texaschildrenscommission.gov/media/16849/CPA%20Organizational%20Survey%20Summary.pdf> (last visited [June 17, 2013]).

⁴ Minnesota Department of Human Services, Child Safety and Permanency Division, *Child and Family Visitation: Practice Guide to Support Lasting Reunification and Preserving Family Connections for Children in Foster Care*, <http://www.ourkids.us/SiteCollectionDocuments/Handbooks/Visitation%20Minnesota's%20Guide.pdf> (last visited [July 9, 2013]).

⁵ Best Practices for Visitation and Family Time, Katie Compton, Certified Family Life Educator, Infant Mental Health Endorsement II and Stephanie Sifuentes, Licensed Clinical Social Worker,

CPS Practice Model and Policy Supporting Visitation

CPS policies and practice are designed to support visits between children and their families, and to place children close to their home community and with siblings, and are intended to move visitation from highly-supervised and structured events to unsupervised interactions; however, a majority of child welfare stakeholders and advocates do not know about CPS policy or experience the practices intermittently.⁶ CPS reports that its staff is currently trained to develop visitation plans, to supervise visits, and to prepare children and families for the visits, but the staff is not skilled in developing individualized visitation plans, utilizing non-agency resources to assist with visitation, encouraging visitation in locations outside of CPS offices, or engaging in progressive visitation planning.^{7,8}

In responding to the organizational survey, CPS identified the following strengths, challenges, and needs of the agency:

Agency Strengths – a practice and policy commitment to family visitation that is documented in the Family as well as the Child’s Plan of Service that includes extended family and other significant people in the child’s life.⁹

Agency Challenges – unsupportive organizational culture; inconsistent or incomplete visiting policies; lack of a clearly defined visiting practice, caseload size, and workload demand; lack of transportation; lack of resources to aid in assisting with increased visitation; and court and other legal stakeholder input and attitudes around visitation planning.¹⁰

Agency Needs – more clearly stated policy; increased staff training; increased stakeholder commitment; more assistance with transportation and supervision.¹¹

Child Placing Agency Practice and Policy Supporting Visitation

The majority of Child Placing Agencies (CPA) that responded to the organizational survey indicated that they, too, have policies in place to guide their case managers on the importance of family visitation, parents’ rights to see their children while they are in foster care, and practices that support sibling visitation.¹² The majority of CPAs responded “yes” to the question of whether their agency develops written visitation plans.¹³ And, while the CPAs share the written visitation plan with their case managers and CPS, the majority also responded “no” to the question of whether the visitation plans are shared with parents and kin.¹⁴ The majority also view their primary responsibility as preparing foster parents for visits and consulting with the foster parents after visits, if necessary. The foster parents are responsible for preparing children for the visits and providing transportation to and from the visits.¹⁵

<http://texaschildrenscommission.gov/media/16790/Compton-Sifuentes%20Family%20Visitation%20PPT.pdf> (last visited [July 12, 2013]).

⁶ CPS Organizational Survey, *supra* note 1 at Q 3; CPA Organizational Survey, *supra* note 2 at Q 1 & 2.

⁷ CPS Organizational Survey, *supra* note 1 at Q 11.

⁸ Minnesota Practice Guide, *supra* note 4 at Q 17.

⁹ CPS Organizational Survey, *supra* note 1 at Q 14.

¹⁰ *Id.* Q 15.

¹¹ *Id.* Q 16.

¹² CPA Organizational Survey, *supra* note 2 at Q 3.

¹³ *Id.* Q 4.

¹⁴ *Id.* Q 5.

¹⁵ *Id.* Q 8.

The number one challenge to their agencies in developing and implementing strong visiting policies and practices is the lack of coordination with CPS.¹⁶ This challenge was followed by transportation and staff turnover ranking second and third.¹⁷

When asked what was needed to overcome the challenges, CPAs responded that better communication and coordination from and with CPS is critical. Generally, placements and foster parents are expected to respond to last-minute visitation and transportation requests, get little to no consideration for the scheduling complexities in caring for multiple children with visitation needs and challenges, and are sometimes viewed as little more than babysitters.¹⁸

March 1, 2013 Family Visitation Round Table

The round table started with a general discussion of the importance of family visitation.

The following section represents the topics of discussion engaged in by the participants at the round table and information gathered through survey or research in preparation for the round table and in writing this report.

Why visitation is important

- Helps maintain the bond between child and parent;
- Motivates parent to comply with services;
- Can improve parent's skills;
- Reduces separation trauma for children;
- Promotes well-being of the child and parents;
- Provides opportunity to assess the family;
- Promotes reunification;
- Provides evidence for termination trial;
- Improves relationships of everyone involved in the case; and
- Serves the child's best interest

Why visitation may not be appropriate

- Child safety concerns;
- Traumatizes the child;
- Emotionally difficult for child and parent;
- Children sometimes refuse to see parents;
- Lack of visitation motivates parents to earn visitation;
- Punishes parent for bad behavior;
- Causes behavior problems with child before and/or after; and
- Danger of recantation due to parental influence

¹⁶ *Id.* Q 15.

¹⁷ *Id.*

¹⁸ *Id.* Q 16.

1. Why we have family visitation – and why not?

Most participants and studies support the idea that visitation promotes reunification.¹⁹ Other reasons cited for having visitation included maintaining the family bond and serving the child’s best interest. It also reduces the trauma from separation and enhances the well-being of all. Visitation also allows the parent to practice and improve his or her parenting skills and allows CPS to assess the parent and the family as a whole. There might be therapeutic reasons, such as helping a child deal with disappointment in a parent who fails to visit time after time. Also, offering or arranging visits for a parent who does not participate may support the state seeking termination of parental rights based on constructive abandonment grounds.²⁰

Most participants agreed that visitation can be hard on everyone involved, especially the children and the parents, because it is very emotional and children often – and understandably – exhibit challenging or defiant behavior prior to and after visitation. Also, although not the norm, there are cases in which visitation might not be appropriate or authorized by a court, for example: a safety threat exists, visitation might be traumatic to the child, or the child refuses to visit the parent. Participants also discuss situations when visitation provides a setting and opportunity for parents to influence children to recant allegations of abuse and neglect.

2. Motivation versus punishment

The round table participants discussed whether it is ever appropriate to use visitation as a motivation or punishment for parents. According to the Minnesota Practice Guide, parents should not be denied visitation unless the court finds that visitation would prevent meeting court-ordered goals or be physically or emotionally endangering to a child.²¹ During their presentation, Compton-Sifuentes also asserted that it is never appropriate to use visitation as reward or punishment for a substance abusing parent.²² The vast majority of stakeholders (80.4%) who responded to the survey question regarding a parent’s right to visit with their child supported this right, unless a court has ordered otherwise.²³ However, many of the positive responses were qualified with statements regarding safety, drug use, and best interest of the child. Also, stakeholders were asked to comment on whether, in their experience, CPS and/or the judge required parents to test clean for drugs in order to have visitation. The majority responded “yes” to this question.²⁴

The Minnesota Guide and Compton-Sifuentes support that visitation and family contact should never be used as a reward or punishment, but should always be considered a right of families and children.²⁵ Further, increased or restricted visitation should be related to an assessment of safety and not linked to other measurements.²⁶ Judges at the round table were of the opinion that if using drugs is grounds for

¹⁹ Minnesota Practice Guide, *supra* note 4 at 2.

²⁰ Tex. Fam. Code Ann. §161.001 (West 2012).

²¹ Minnesota Practice Guide, *supra* note 2 at 5.

²² Best Practices for Visitation and Family Time, *supra* note 3 at 22.

²³ *Id.* Slide 8.

²⁴ Visitation Stakeholder Survey, *supra* note 3 at Q 6.

²⁵ Minnesota Practice Guide, *supra* note 2 at 5; Best Practices for Visitation and Family Time, *supra* note 5 at 9 (citing Hess & Prosch, 1988).

²⁶ *Id.*

terminating parental rights, being under the influence of drugs during family visitation could potentially violate Family Code Section 161.001.²⁷

Some participants contended that if a parent is ordered to remain sober, and he or she cannot or does not, the parent not only misses out on improving his or her parenting skills during visitation, but also does not have healthy interactions with his or her children because of the influence of drugs or alcohol. Others were of the belief that children in CPS cases often have seen their parents high and/or drunk and that even a parent who is high can have a safe visit with his or her child. Also, some felt that a parent's inability to stay sober was not correlated with the desire to be a parent. Many participants commented that simply seeing their children is motivating to parents and it alleviates fear that they will never see their child again or that their child will be put up for adoption. Denying visits or having infrequent visits may damage the bond between the parent and child.

Most everyone agreed, however, that, in the end, when a parent is denied visitation because of his or her behavior or violation of a court order, it is usually the child, with the need to see his or her parent, who suffers.

3. How frequently should families visit?

DFPS policy states that visitation should be frequent, and at least once per month. The Minnesota Guide recommends visitations initially occur for all children within 48 hours of placement and thereafter with a frequency that correlates with the child's age and development and consistent with his or her permanency goal.²⁸ Compton-Sifuentes also advocate for the first visitation within 48 hours, for daily contact for infants and toddlers under three years of age, and two to three times per week for school-aged children.²⁹ Older youth should have regular contact, including in person or by phone, email, texting, Skype, and letters.³⁰ The majority of stakeholders who responded to the survey indicated that the first visit should occur within 72 hours of removal from the home.³¹

After the March round table, the 83rd Texas Legislature passed and the Texas Governor signed Senate Bill 352 (Visitation Bill), requiring DFPS to:

- Provide each parent and child the opportunity to visit within three days of DFPS being named Temporary Managing Conservator (TMC) unless DFPS (*not the judge*) determines visitation is not in the child's best interest or would conflict with an existing order restricting access to the child (emphasis added)
- Develop a temporary visitation schedule prior to the adversary hearing and a visitation plan within 30 days of being named the TMC, if the permanency plan is reunification
- During development of each visitation plan, take into account the child's safety, best interest, age, desires, location, and resources available to supervise visits and provide transportation
- File each plan with the court at least 10 days prior to the Status and Permanency Hearings under Chapter 263

²⁷ Tex. Fam. Code Ann. §161.001(1)(D);(E) (West 2012).

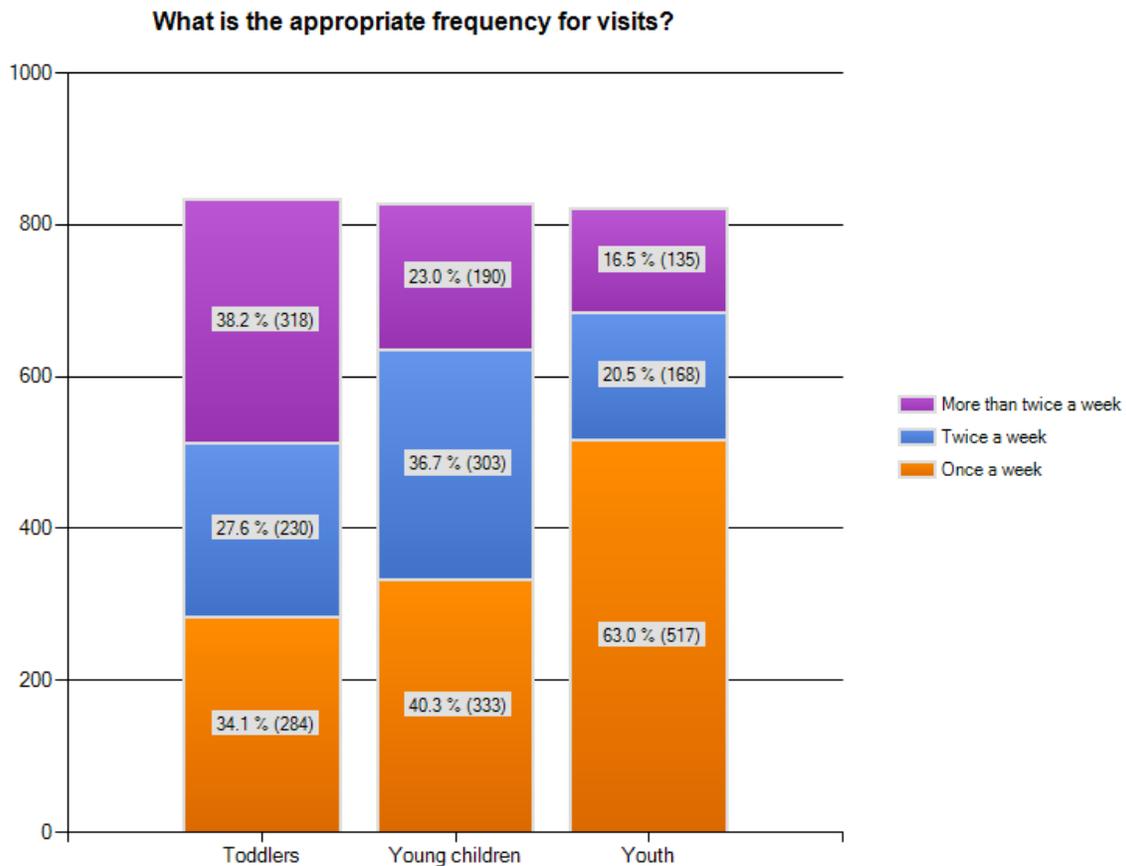
²⁸ Minnesota Practice Guide, *supra* note 2 at 3.

²⁹ Best Practices for Visitation and Family Time, *supra* note 5 at 2.

³⁰ Best Practices for Visitation and Family Time, *supra* note 5 at 2.

³¹ Visitation Stakeholder Survey, *supra* note 3 at Q 12.

Only a slim majority of survey respondents thought visitation frequency should be based on the age of the child.³² However, when asked about the appropriate frequency for visits by age, the following responses were submitted.



These responses reflect what the Minnesota Guide and Compton-Sifuentes recommend, and complement the mandates of Senate Bill 352.

4. How long should families visit?

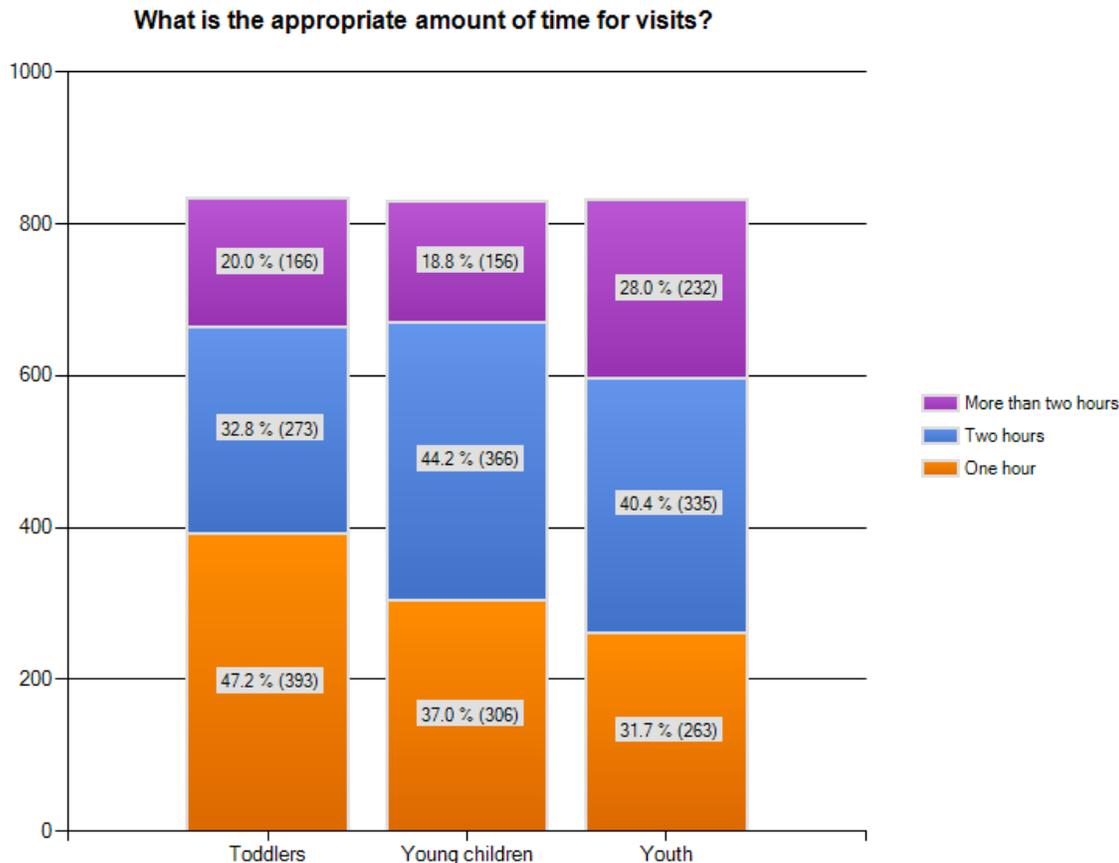
CPS does not have a policy regarding the optimal length of time for visits nor is there any policy that varies the length of visits by age.³³ The majority of CPAs that responded to this question also do not have written policies regarding the length of visits among families.³⁴ The majority of stakeholders who responded to the Commission’s visitation survey responded that, generally, younger children needed frequent visitation for short periods of time – up to one hour. For older children and youth,

³² Visitation Stakeholder Survey, *supra* note 3 at Q 9.

³³ CPS Organizational Survey, *supra* note 1 at Q 5.

³⁴ CPA Organizational Survey, *supra* note 2 at Q 3.

respondents felt that less frequent visitation is needed, but the visits should be longer in duration – up to two hours or more.



5. Where Should Visits Take Place?

CPS policy states that the location of visits should be based on the best interest of the child, taking into consideration the wishes of the parents and foster parents.³⁵ One option is the foster home, if the foster parents agree. However, this should not be considered if the relationship between the foster parents and the parents is competitive or disruptive.³⁶ CPS is also allowed to consider the child’s home or a relative’s home if it is in the best interest of the child, the child and family are being prepared for the child’s return to the home, or the child’s service plan includes contact with the family and visits in the home.³⁷ Finally, the policy states that the CPS office is an appropriate location for visits if the foster home or the child’s home (parental home) would not be constructive or safe.

The Minnesota Guide recommends that the location be determined based on the type of visitation described by the plan. For highly structured visits with strict supervision, the visitation location would need to ensure child safety and may include a visitation center or agency visiting room, residential

³⁵Dept. Fam. & Prot. Serv., Child Protective Services Handbook, Section 6415.2 (Sept. 2007) available at http://www.dfps.state.tx.us/handbooks/CPS/Files/CPS_pg_6400.asp#CPS_6415.

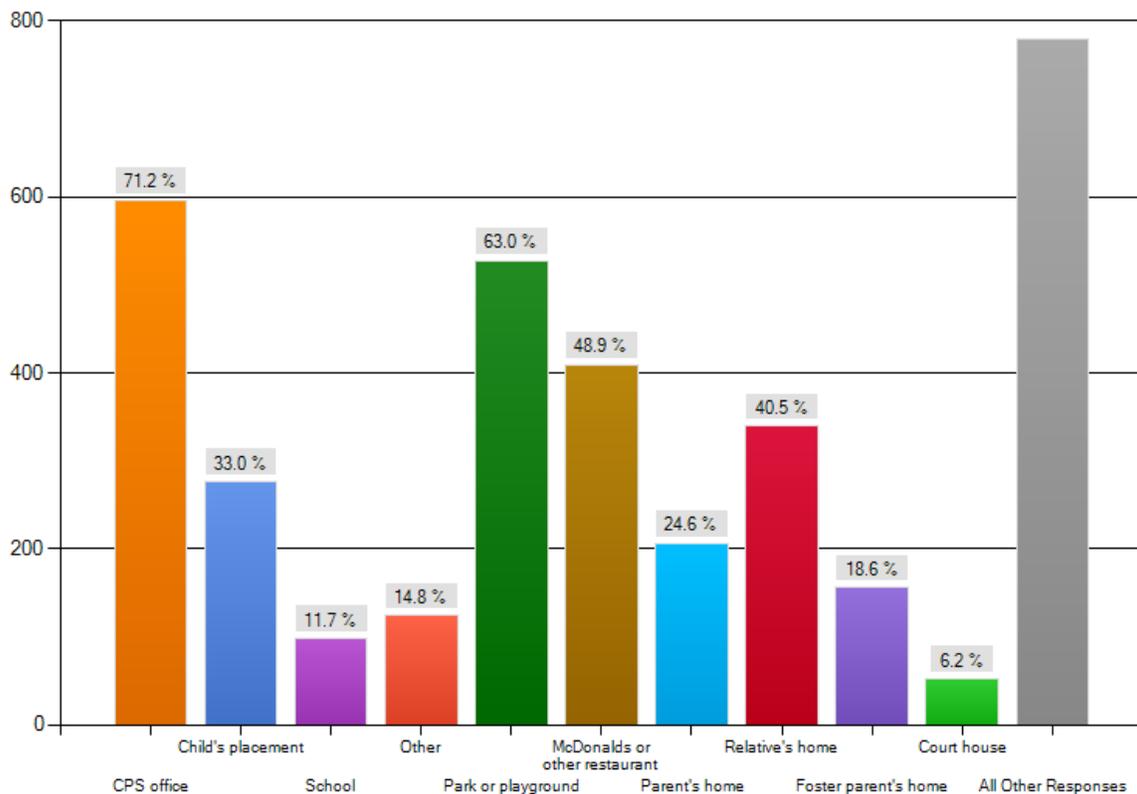
³⁶*Id.* at 6415.2.

³⁷*Id.*

treatment center, or therapist’s office.³⁸ As visitation progresses along with the permanency plan of reunification, the location can transition to a homelike setting, including the parent’s home, relative’s home, foster home, a professional’s office, park, or other community setting.³⁹ Eventually, once the family is transitioning to reunification, the parent would determine the location.⁴⁰ Compton-Sifuentes recommend visitation in familiar, home-like environments with the initial visits being in a predictable, consistent location at first.⁴¹ Compton-Sifuentes recommend the agency visitation room only in cases where safety is a primary concern.⁴² Despite CPS policy and proposed best practices, the agency, judiciary, stakeholders, and advocates have adopted a presumption or a default that visitation starts out supervised at the CPS office.

Survey respondents were also asked where visitation should take place, and were allowed to choose more than one location.⁴³ Over 70% of the 837 respondents chose the CPS office as an acceptable location for visits even though much of the dialogue at the round table centered on how to move visits away from the CPS office.

Where should visits occur?



³⁸ Minnesota Practice Guide, *supra* note 2 at 34.

³⁹ *Id.*

⁴⁰ *Id.*

⁴¹ Best Practices for Visitation and Family Time, *supra* note 5 at 8.

⁴² *Id.*

⁴³ Visitation Stakeholder Survey, *supra* note 3 at Q 18.

Of the “other” category, suggestions such as the mall, local CASA office, visitation centers, church, places the child feels safe and comfortable, and least restrictive environments were suggested.⁴⁴ However, Compton-Sifuentes emphasized at the round table that visitation at fast food restaurants should be last resort because such locations may interfere with the parent’s ability to have meaningful interactions with the children as children are often playing on equipment that does not allow a parent to engage with their child.

Round table participants favorably discussed using relatives to supervise visits within their own homes. However, many relatives have a criminal and/or CPS history, which can preclude them from supervising visitation in their home. It was suggested that CPS revise its policy and attitudes on whether relatives with a criminal and/or CPS history can supervise visitation in their home or at another location. There was also a discussion about garnering more community resources for assistance, such as faith-based support, trained community volunteers, CASA volunteers, or a private child custody/visitation agency.

The location is also affected by the proximity of the child’s placement and the parent’s ability to get there. As discussed at the round table, there is also the possibility that if CPS did not accommodate visits at its offices, visitation would likely decrease because caseworkers and CPS staff supervise visits at the CPS offices due to its convenience. Visits at the CPS office allow for staff to supervise multiple visits at a time as well as back-to-back visits. Off-site visits would also require travel time, which would reduce staff time available for supervision. When asked, most round table participants felt that frequency was more important than location.

6. Who should supervise?

Supervised visitation is usually employed to help ensure the child’s physical safety while having contact with family. In addition to a discussion about who should visit, the participants delved into the different levels of supervision and how to determine when to move from more to less restrictive supervision. CPS currently has contracts for supervised visitation in some regions, but not all.

Of the 822 stakeholders who responded to the survey question of whether CPS should supervise all child-family visits, 46% said “yes.” Regarding whether foster parents should be involved in the scheduling and planning of visitation, 69% responded “yes,” but over 70% expressed that foster parents should not supervise visitation.

There was discussion at the round table that supervision by foster parents can create a hostile situation when or if the foster parent wants to adopt a child in their care. However, there were also foster parents at the round table who articulated the need for a relationship with the child’s parent, if for no other reason than to let the parent know his or her child is okay and to get information about the child for whom they are caring. One foster parent commented that being allowed to participate in the development of a visitation plan and supervising the biological mother with her child in the mother’s home made her realize the child belonged with his mother.

7. Supervision level

Participants agreed that the child’s safety is the priority when determining the supervision level, and that location and the level of supervision should match the removal reasons—which should, in turn,

⁴⁴ *Id.* at Q 12.

relate to safety versus risk. The Minnesota Guide suggests supervision levels, embodied in a written visitation plan, that range from strict supervision at a secure location, where the child's safety is a concern, to unsupervised where there is no monitor present, there are no safety concerns, and the location is determined by the parent.⁴⁵ Compton-Sifuentes recommend a similar structure.⁴⁶

Minnesota Guide Suggested Supervision Levels:

Strict Supervision: highly structured in a visitation center, agency visiting room, residential treatment center, therapist office, or other secure location; supervisor or monitor maintains close watch to ensure child safety, and parent cannot be alone with child. Parental coaching may be offered, but the primary concern is the child's safety.

Moderate Supervision: less structured and in a home or community location; supervisor not only monitors, but helps with parent education and coaching to address safety concerns; and parent may be permitted short periods of alone time with child.

Relaxed Supervision: in a home or community location, including at therapy appointments; supervisor's role designed to offer education, parenting skills, and support; and parent has some alone time with child, assuming caregiving tasks.

Unsupervised: no safety concerns and there is no supervisor present; parent determines location and can be alone with child; may include overnight visits leading to reunification.

See Appendix A for a sample Family Visitation Guide.

8. Developing a Written Visitation Plan

The Minnesota Guide suggests the following elements and attributes of a written visitation plan to ensure that it:

- honors a child's existing bonds and attachments
- includes the father, mother, siblings, and other relatives or kin who are significant to a child
- promotes the family's individual strengths and provides continuity of family relationships
- involves parents(s), child, and foster family in the development and ongoing assessment of the plan
- involves the family's support system
- arranges visitation in the most home-like setting that will maintain a child's safety and existing attachments
- connects a child's safety to the level of supervision
- considers a child's daily schedule, and the parent(s)' work and/or treatment obligations
- ensures that visitation frequency and settings are consistent and develop progressively towards a permanency goal
- respects the family's culture, faith, and rituals
- ensures that parent(s) assist in daily decision-making and participate in everyday activities as much as possible and

⁴⁵ Minnesota Practice Guide, *supra* note 2 at pp. 33-34.

⁴⁶ Best Practices for Visitation and Family Time, *supra* note 5 at 10.

- increases contact and parents' role toward reunification, or, when a child cannot return, continues family relationships that preserve family and community connections⁴⁷

a. Who should be involved in developing plan and who should write the plan

The Minnesota Guide suggests that social workers should have the primary responsibility to ensure the visitation plan is developed, implemented, and revised as needed.⁴⁸ It also indicates that the visitation plan should be developed with the parents, foster parents, child (if appropriate), and social worker.⁴⁹ See Appendix A for a more thorough description of the foster parent's role in visitation. Although not included in the Minnesota Guide, other parties may be included, such as the child's Guardian Ad Litem or volunteer advocate, the child's Attorney Ad Litem, and the parent's attorney, if one is appointed. Senate Bill 352, effective September 1, 2013, requires the Department to develop a temporary visitation plan before the 14-day Adversary Hearing held under Subchapter C of Chapter 262.⁵⁰

Round table participants supported the development of a visitation plan by CPS no later than the 14-day hearing. Senate Bill 352, effective September 1, 2013, will require CPS to develop a temporary visitation schedule by the 14-day hearing. CPS will also be required to develop a visitation plan within 30 days of being granted conservatorship and filed with the court. Participants also thought visitation plans should be flexible so they can be modified without court involvement.

b. Should there be multiple visitation plans?

Currently, visitation plans are written as part of the family and child's plan of service. The family is involved in the development, as are older youth. Copies of the plan of service are provided to the parents and others involved in the case, documented in the case record, and filed with the court.

The Minnesota Guide does not specifically advocate for individual (per person) visitation plans; rather, it proposes drafting a thorough visitation plan that is specific yet flexible enough to accommodate applicability to the entire family.

c. What should be included in the written plan?

The Minnesota Guide provides several considerations that should be included in a visitation plan, starting with the premise that the plan will connect the goal of the case and the purpose of visitation with the child's safety and will be written in a language the parent can understand.⁵¹ Compton-Sifuentes also propose that the visitation plan include a date by which the plan will be reviewed and that it include concrete expectations.⁵² Also, changes in visitation should be directly related to ongoing safety concerns within a continuous assessment process.⁵³

A plan with concrete expectations might:

⁴⁷ Minnesota Practice Guide, *supra* note 2 at 10.

⁴⁸ *Id.*

⁴⁹ *Id.* at 16.

⁵⁰ Tex. Fam. Code Ann. §262.115(d) (eff. Sept 1, 2013).

⁵¹ Minnesota Practice Guide, *supra* note 2 at 13.

⁵² Best Practices for Visitation and Family Time, *supra* note 5 at 7.

⁵³ Minnesota Practice Guide, *supra* note 2 at 17.

- Itemize dates, visit length, and start and end times of visits
- Identify who is responsible for arranging the visits, including who will initiate planning and who will transport to and from
- Designate the level of supervision, who will monitor, and the monitor's role (e.g., strictly monitoring or providing direction or coaching for the parent)
- Name who will approve the activities and bring certain items, such as diapers, toys, food
- Determine the types of behaviors that will end the session and who makes the decision to end it (e.g., breaching verbal boundaries, exchanging notes or documents, failing to call if visit will be missed, not remaining sober, using physical discipline, bringing other persons without advance approval)
- Identify agency and foster/CPA services that will support the visit
- Clarify how problems or emergencies will be managed and by whom
- List the procedures for canceling a visit
- Name the persons prohibited from visiting
- Designate whether different persons have different visitation privileges or conditions (e.g., dad may have visits outside agency, mom may not)
- Establish other forms of contact besides in-person visits
- Determine who/which parent will handle sibling interactions and how

d. Should there be phases of visitation?

The Minnesota Guide proposes that visitation is a process that can be broken into three phases: 1) initial; 2) middle; and 3) transition.⁵⁴ Different purposes are emphasized in each phase, but the primary purpose in all phases is to preserve and enhance family connections. Generally, the initial phase is an assessment phase, which focuses on child safety, family capacity, goal planning, and building relationships among the parents, foster family, social worker, other family members, and the child.⁵⁵ The middle phase focuses on the parent's ability to develop and demonstrate new skills and respond to child behaviors, and also offers an opportunity for CPS to assess progress made toward the permanency goal, determine if the visitation plan needs revision, assess the foster parent role, and plan for the shift of responsibility back to the parent, if appropriate. The final phase is the transition phase, which focuses on structuring visits designed to ensure planned reunification is accomplished.⁵⁶

Also, as recommended by Compton-Sifuentes, the visitation phases include a more defined ongoing assessment process and feedback loop to the parent to address parenting skills, safety concerns, and remaining stress points.⁵⁷

Round table participants indicated that many parents are frustrated by the current visitation scheme because transitioning to unsupervised visitation takes too long. Some noted that, occasionally, parents are finished with services but are still required to work through a graduated visitation schedule. This problem could be alleviated by using a written plan with clear criteria and assessment points.

e. Siblings

⁵⁴ *Id.* at 38.

⁵⁵ *Id.* at 36.

⁵⁶ *Id.*

⁵⁷ Best Practices for Visitation and Family Time, *supra* note 5 at 13.

DFPS policy and rules state that CPS must provide for frequent visitation or other ongoing interaction between siblings unless a court has ordered otherwise or CPS has determined and documented in the child's plan of service that frequent visitation or other ongoing interaction would be contrary to the safety or well-being of any of the siblings and the court has *not* ordered that visitation or contact between the siblings occur (emphasis added).⁵⁸ Siblings placed with separate caregivers (parents, relatives, or substitute caregivers) should have at least monthly contact with each other unless there are documented reasons not to do so. The contact should be face-to-face unless there are documented reasons this cannot occur. Less than monthly face-to-face sibling contact must have documented program director approval. During times when face-to-face contact cannot occur, contact by telephone, letter, or other forms of telecommunications should occur.⁵⁹

Round table participants discussed the importance of enabling siblings to visit each other as much as possible if they are not placed together. Sibling visitation should be spelled out in the visitation plan along with the other specifics. One obvious barrier to in-person visits is distance. However, most participants felt that electronic communication is being used by older youth and that CPS, advocates, judges, foster parents, and relatives must embrace the fact that youth are using Facebook, Skype, and texting to communicate with their families and friends. Also, most participants felt that, unless there is some safety concern, foster youth should have access to social media like other kids their age. Another solution promoted at the round table was greater involvement of foster parents in facilitating and monitoring sibling visits.

f. Incarcerated Parents

Parents who are incarcerated must be allowed to participate in service planning and relationship-building activities with their child that may include visitation, letter writing, phone contact, or other activities deemed appropriate.⁶⁰ For incarcerated parents, thorough visitation planning requires additional attention because it may involve contacting the prison or jail to make arrangements. Also, children must be adequately prepared for the environment in which contact with parents who are incarcerated will occur; this may depend on how much information about the facility can be shared.⁶¹ According to Compton-Sifuentes, parents experience increased depression without child contact. In turn, children feel anger and a sense of abandonment without parental contact. There may also be feelings that the parent is a bad person because they are in jail, but the child still loves that parent.⁶²

g. Sexual Abuse

Compton-Sifuentes state that early and frequent visits under circumstances of severe sexual or physical abuse are contraindicated. Both the Minnesota Guide and Compton-Sifuentes stress conducting a proper assessment of the safety issues and child and parent readiness for visitation, including therapist evaluations and recommendations.⁶³ Parental readiness would include taking responsibility for the abuse, showing empathy for the victim, identifying risk factors, and demonstrating coping skills. Child readiness would include the ability to articulate thoughts about their feelings, a desire to see the abuser,

⁵⁸ 40 Tex. Admin. Code §700.1327 (2012) (Dept of Family and Protective Services); Dept. Fam. & Prot. Serv., Child Protective Services Handbook, Section 6415.2, *supra* note 35.

⁵⁹ Dept. Fam. & Prot. Serv., Child Protective Services Handbook, Section 6415.2, *supra* note 35.

⁶⁰ *Id.* at §§ 6414.2 and 6418.5

⁶¹ Minnesota Practice Guide, *supra* note 2 at 26.

⁶² Best Practices for Visitation and Family Time, *supra* note 5 at 21.

⁶³ Minnesota Practice Guide, *supra* note 2 at 27.

and feelings of safety in the presence of the abuse.⁶⁴ Of course, a court may also set rules and boundaries about contact under these circumstances.

h. Residential Treatment Centers

Nothing in the CPS Policy Handbook specifically addresses visitation when a child is placed in a Residential Treatment Center, as visitation frequency is not based on placement type. The current residential contract addresses the need for visits with siblings and the contractor's responsibility to provide transportation to visits and to ensure contact with siblings if a face to face visit cannot happen. However, regardless of whether a child is in group care or residential treatment, the family visitation plan needs to account for visitation under all placement types and circumstances. Parents and children have the same rights of communication and visitation even when the placement is congregate or residential treatment care.

i. Court oversight and approval

The vast majority of stakeholders who responded to the survey believe the court should review and/or approve the visitation plan.⁶⁵ Under Senate Bill 352, courts also have new duties at each Status and Permanency Hearing. Effective September 1, 2013, courts must:

- Review the visitation plan and may modify the plan at the Status Hearing
- Review and/or modify an original or amended visitation plan at the parent's request
- Render an order regarding visitation that the court determines is appropriate
- State the reasons visitation is not in the child's best interest and outline steps the parent must take in order to have visitation
- State specific steps the parent must take to have the supervision level reduced
- Review the visitation plan at each permanency hearing held under Texas Family Code Section 263.306 and ensure that the plan complies with new Family Code Section 263.107

Conclusion

Visitation is essential for a child's well-being, it is fundamental to permanency, and even when reunification is not likely, parents, siblings and extended family can be important in children's lives.⁶⁶ Although the family visitation plan will look different for every family, the goal should be to provide a plan that is written in collaboration with the family; supports regular, frequent, and meaningful visitation in a home-like environment; provides an appropriate level of supervision; is healthy for the child and family; and promotes safe permanency that is in the best interest of the child.

⁶⁴ Best Practices for Visitation and Family Time, *supra* note 5 at 23.

⁶⁵ Visitation Stakeholder Survey, *supra* note 3 at Q 16.

⁶⁶ Minnesota Practice Guide, *supra* note 2.

APPENDIX A

Family Visitation Guide

	Highly Structured Strict Supervision	Moderate Structure Moderate Supervision	Relaxed and/or Intermittent Supervision	Unsupervised, including overnights
Safety Assessment	There is a high level of concern for the child's physical or emotional safety.	There is a moderate level of concern for the child's safety.	There is a low level of concern for the child's safety.	There are no safety concerns.
Supervision Level	Child may not be out of the presence of the monitor and parent(s) cannot be alone with their child.	Monitor is present for most of the visit. Parent may be alone with their child, if monitor ensures certain conditions are met or observed by the parent.	Monitor may be present for a portion of the visit. The parent(s) would have some time alone with their child.	No monitor is present for the majority of or during the visit. Parent(s) can be alone with the child. Use immediately prior to or within 14 days of reunification.
Location	CPS office to ensure structured and safe visits or home-like settings that are supervised, but can also help the parent develop parenting skills and protective capacities.	Home-like setting that offers parent opportunity to develop parenting skills, improve parent-child interactions, while allowing monitor to manage any safety concerns.	May include parent or relative's home, or other home-like setting that offers parent opportunity to develop parenting skills, improve parent-child interactions.	Parent determines visitation location, in collaboration with caseworker and child's caregiver to avoid schedule conflicts.
Visitation frequency	<p>Infants / Toddlers – 2x per week for 2 hours</p> <p>Young Child – 1x per week for 2 hours</p> <p>Youth – 1x per week for 2 hours or more</p>	<p>Infants / Toddlers – 2x per week for 2 hours</p> <p>Young Child – 1x per week for 2 hours</p> <p>Youth – 1x per week for 2 hours or more</p>	<p>Infants / Toddlers – 2x per week for 2 hours</p> <p>Young Child – 1x per week for 2 hours</p> <p>Youth – 1x per week for 2 hours or more</p>	<p>Infants / Toddlers – 2x per week for 2 hours</p> <p>Young Child – 1x per week for 2 hours</p> <p>Youth – 1x per week for 2 hours or more</p>
Monitor's Role	To manage safety concerns, ensure safety of the child. May include parent coaching and education, but primary role is protection of the child.	To manage safety concerns and offer parent education, coaching and support, including a discussion about behavior observed during visit that may be unsafe or appropriate or involve behaviors that exhibit protective capacities and competence or lack of.	Primarily offer education, parenting skills, coaching and support in line with the permanency goals. Could also discuss behaviors observed during visit that are appropriate and exhibit protective capacities and competence.	No monitor. Parent(s) and caseworker would communicate and provide feedback / exchange information about the visit.

APPENDIX B

Foster Parent Role in Visitation⁶⁷

Do not place restrictions on child's communication with parent(s) beyond the restrictions specified in the case plan.

Follow the visitation and communication plan as developed by the Department or as required by court order.

Respect the importance of family and help keep the relationship alive by making adjustments to accommodate visitation.

Understand and be patient in addressing challenging behavior that results from separation and grieving.

Maintain contact regarding the adjustment and welfare of a child, including reporting behaviors that would help agency staff to understand his or her current emotional and behavioral state.

Keep information about child and family confidential.

Ensure that social worker and child have opportunity to meet alone.

Be involved in visits, model healthy parent-child interaction, teach parenting skills, or share information agreed to in the out-of-home placement plan.

Provide emotional support, even when contact with parent and siblings is disruptive or confusing to child.

Document child's behavior after visit as requested by social worker or as preferred by foster parent.

Prepare child for each contact, including having appropriate clothing, diapers, special food.

Consider ways to prepare a child for visits, such as sharing information with parent about child's daily life, sending recent information from school, school projects, or pictures of his or her child doing a chore.

Ensure parent is aware of child's activities and school events, promote inclusion of child's activities as part of visitation plan, and provide pictures when parent cannot attend activities.

Provide transportation as agreed to in the visitation plan.

Comfort and reassure child in ways that are helpful following a visit.

Be flexible in scheduling visitation so that child is able to have maximum contact.

When face-to-face visitation isn't possible, plan how to accommodate with telephone calls, email or other options.

⁶⁷ Minnesota Practice Guide, *supra* note 2 at 18-19.

APPENDIX C

List of Invitees/Attendees

Name	Title/Organization	
Tina Amberboy	Executive Director, Children's Commission	Staff
Tiffany Roper	Assistant Director, Children's Commission	Staff
Mari Aaron	Executive Assistant, Children's Commission	Staff
Katie Brown	Staff Attorney, Children's Commission	Staff
Teri Moran	Communications Manager, Children's Commission	Staff
Milbrey Raney	Staff Attorney, Children's Commission	Staff
Kristi Taylor	Staff Attorney, Children's Commission	Staff
Mena Ramon	Office of Court Administration	Staff
Hon. F. Scott McCown	Executive Director, Center for Public Policy Priorities	Facilitator
Hon. John Specia	Commissioner, Texas Dept. of Family & Protective Services	Agency
Katie Olse	Chief of Staff, Texas Dept. of Family & Protective Services	Agency
Audrey Deckinga	Assistant Commissioner, Texas Dept. of Family & Protective Services	Agency
Jolynne Batchelor	CPS Division Admin. for Family Focus, Texas Dept. of Family & Protective Services	Agency
Jane Burstain	Senior Policy Analyst, Texas Dept. of Family & Protective Services	Agency
De Shaun Ealoms	Parent Program Specialist, Texas Dept. of Family & Protective Services	Agency
Debra Emerson	CPS Director of Permanency, Texas Dept. of Family & Protective Services	Agency
Mary Ann Fisher	Permanency Program Specialist, Texas Dept. of Family & Protective Services	Agency
Kim Gibbons	CPS Projects Program Specialist, Texas Dept. of Family & Protective Services	Agency

Jenny Hinson	CPS Division Administrator for Permanency, Texas Dept. of Family & Protective Services	Agency
Colleen McCall	CPS Director of Field, Texas Dept. of Family & Protective Services	Agency
Tanya Oestrick	Lead Foster Care & Adoption Specialist, Texas Dept. of Family & Protective Services	Agency
Beth Page	Director of Program Litigation, Texas Dept. of Family & Protective Services	Agency
Tanya Rollins	State Disproportionality Manager, Texas Dept. of Family & Protective Services	Agency
Carol Self	Lead Permanency Program Specialist, Texas Dept. of Family & Protective Services	Agency
Jean (Darla) Shaw	Child Care Licensing Director, Texas Dept. of Family & Protective Services	Agency
Heather Shiels	Director, Residential Contracts, Texas Dept. of Family & Protective Services	Agency
Kathryn Sibley	Legislative & Policy Analyst, Texas Dept. of Family & Protective Services	Agency
Kenneth Thompson	Fatherhood Program Specialist, Texas Dept. of Family & Protective Services	Agency
Kathy Teutsch	Division Administrator for Medical Services, Texas Dept. of Family & Protective Services	Agency
Michelle Hansford	Parent Representative, Parent Collaboration Group	Family
Rebecca Lopez Dianas	Relative / Kin Representative	Family
Alisha Maglio	Parent Representative, Parent Collaboration Group	Family
Kimberly Murphree	Relative / Kin Representative	Family
Terry Osborne	Parent Representative	Family
Taylor Pohlmeier	Foster Parent	Family
Rain Singingwolf	Foster Parent	Family
Sharayah Stiggers	Parent Representative	Family
Tymothy Belseth	Youth Specialist, Texas Dept. of Family & Protective Services	Youth

Annabell Alegria	Parent Attorney, Brownsville, TX	Legal Advocacy
Jana Foreman	Parent Attorney, Bryan, TX	Legal Advocacy
Debra Fuller	Attorney, Kerrville, TX	Legal Advocacy
Patrick Gendron	Attorney Ad Litem	Legal Advocacy
Tracy Harting	Parent Attorney, Austin, TX	Legal Advocacy
Lori Kennedy	Managing Attorney, Travis County Office of Parental Representation	Legal Advocacy
Stephani Logue	Assistant District Attorney, Wichita County	Legal Advocacy
Tillie Luke	Parent Attorney, Seguin, TX	Legal Advocacy
Jackie Martin	Parent Attorney, Grand Prairie, TX	Legal Advocacy
Genevieve McGarvey	Parent Attorney, Galveston, TX	Legal Advocacy
Leslie Strauch	Clinical Professor, University of Texas School of Law	Legal Advocacy
Sarah Abrahams	Program Specialist, Casey Family Programs	Services/Advocacy
Dr. Katherine Barillas	Director of Child Welfare Policy, One Voice Texas	Services/Advocacy
Cathy Cockerham	Program Operations Director, Texas Court Appointed Special Advocates	Services/Advocacy
Katie Compton	Certified Family Life Educator , Cradles Program	Services/Advocacy
Dr. Vivian Dorsett	Director, Texas Foster Care Alumni Association	Services/Advocacy
Dr. Tracy Eilers	Senior Director, Foster Care, Cenpatico / STAR Health	Services/Advocacy
Michael Greenwood	Therapist, MSSW, Austin, TX	Services/Advocacy
Angela Hardin	Director of Supervised Services, LPC , Tania Glenn & Associates	Services / Advocacy
Ashley Harris	Child Welfare Policy Associate, Texans Care for Children	Services/Advocacy
Liana Lowey	Executive Director, Court Appointed Special Advocates of Brazos Valley	Services/Advocacy
Judy Powell	Communications Director, Parent Guidance Center	Services/Advocacy
Johana Scot	Executive Director, Parent Guidance Center	Services/Advocacy

Stephanie Sifuentes	Licensed Clinical Social Worker, Travis County Family Drug Treatment Court	Services/Advocacy
Vicki Spriggs	Chief Executive Officer, Texas Court Appointed Special Advocates	Services/Advocacy
DeJuana Jernigan	Director, Child Welfare and Residential Treatment Services, DePelchin Children's Center	Child Placing and Residential Treatment
Dan Johnson	Executive Director, Pathways Youth and Family Services	Child Placing Agency
Michael Redden	Executive Director, New Horizons	Child Placing and Residential Treatment
Tonia Rozner	Education Specialist, Education Service Center 3	Education
Hon. Alyce Bondurant	Associate Judge, North Texas Child Protection Court	Judicial
Hon. Darlene Byrne	Judge, 126 th District Court, Travis County	Judicial
Hon. Richard Garcia	Associate Judge, Bexar County Children's Court	Judicial
Hon. Bonnie Hellums	Judge, 247th District Court, Harris County	Judicial
Hon. Rob Hofmann	Judge, Child Protection Court of the Hill County	Judicial
Hon. Cathy Morris	Associate Judge, Child Protection Court of South Texas	Judicial
Hon. Ron Pope	Judge, 328th District Court, Fort Bend County	Judicial
Hon. Dean Rucker	Judge, 318 th District Court, Midland County	Judicial
Hon. Robin Sage	Jurist in Residence, Office of Court Administration, Children's Commission	Judicial
Hon. Olen Underwood	Judge, 284 th District Court, Montgomery County	Judicial