



**Patricia Bennett\***

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Matthew Riek\*  
Associate Judge



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To the Honorable District Judges of Tarrant County:

I am writing in response to the Honorable Judge Alex Kim's letter regarding the proposed reallocation of cases. This is to assist the District Judges of Tarrant County to further understand the issues at hand. As you know, the Family District Courts already hear Child Protective Services Cases. We are well qualified to do so. My Associate Judge and I have each practiced Family Law in Tarrant County for over 25 years and we are each Board Certified by the Texas Board of Legal Specialization in Family Law. The judges on the Family benches in Tarrant County all bring a unique perspective to this issue. Judge Munford, Associate Judge Poulos and Associate Judge Kaitcer are also Board Certified in Family Law. Judge Kaitcer is Board Certified in two other areas in addition to Family Law. We have all handled child protection cases both as judges and as attorneys.

I am quite surprised that Judge Kim's supporters expresses opposition to this matter. He did not voice objections to this matter when it has been discussed in the past. I believe that had Judge Kim expressed an objection before the committee set forth to work on this plan and before the Family Law District Judges analyzed their respective dockets, we could have had a better dialogue about these matters. Hopefully we will have better dialogue in the future. Further, his letter does not show an opposition to this matter, and the last two paragraphs clearly explain why this administrative matter must take place.

I am shocked at all the hoopla surrounding this matter. Our conservative Tarrant County judges are simply doing our duty as required under the Texas Government Code to help expedite justice in these very important cases. While this is not an issue of public comment, I am saddened that this meeting is closed. It is my opinion that this meeting does not have to be open but should be open.

I am going to respond to the Honorable Judge Kim's letter, paragraph by paragraph, maintaining the same numbers. Please put that letter beside this letter as you read through it.

1. I would very much like to see that data that supports Judge Kim's conclusory statement in paragraph 1 of his letter that problems in the transition "increases the likelihood of parents being terminated of their rights, children spending more time in the foster system, and reduced family reunifications." I will concur that the transition is important. Because the Family Courts in Tarrant County all handle child protection cases, we are all apprised of this transition and have prepared for the transition. The vast majority of that transition will be at the agency, not the judicial level. I believe that having six district judges and six or seven associate judges aide in the transition is more efficient than one district judge and two or three associate judges.
2. It is my understanding that there are very few Juvenile/CPS crossover cases. Nothing in this transition will prevent cases being transferred under §51.0413 and §51.0414 of the Texas Family Code.
3. We already have policies in place to prevent delay tactics. In the 360<sup>th</sup> Judicial District Court, final trials are primarily heard by the District Judge unless the case falls under Title IV-D of the Social Security Act. Cases are not referred to final trial on the merits before an Associate Judge unless all parties and all attorneys consent in writing to waive the de novo before the case is set before the District Judge. It is my understanding that we will not request a Child Protection Court. I am well aware of my docket, and I believe that I can handle the cases that are assigned to the 360<sup>th</sup>. I feel confident that my colleagues engage in similar practices and have also analyzed their respective dockets.
4. As we already hear child protection matters, all the Family Court judges are aware of time needed to try a child protection case, whether by judge or jury. We are also aware of our respective dockets. We all have experience handling these cases, as we have been handling these cases.
5. Judge Kim's numbers concerning time to dispose of a case do not paint a full and complete picture. There statutory requirements that we review the services these parents and children are receiving at regular intervals during the case. We are required to look at our various placement options, including return to the parents at each stage of the case.

The United States Supreme Court has consistently held that the rights of a parent are a fundamental right. The State has a duty to protect children against abuse and neglect. These rights are carefully balanced in the law. The Texas Legislature has set forth specific procedures to aid in reunification when possible. If reunification cannot occur, we are to explore relative and/or fictive kin placements.

One of the many important aspects are the services provided to the parents whose children were removed after a judicial finding of abuse and/or neglect. Parents are provided services that will help them be better parents and reunify with their children if possible. These services should not be short circuited for efficiency. Children need their parents, and reunification should take place if and when it is safe. While I don't disagree that we need to remove children from foster care and place with parents and/or relatives as soon as is possible, I don't want to look at raw numbers to determine efficiency.

Please remember that this can be cases of horrific abuse and the parents often have addiction issues. We see cases where toddlers test positive for drugs such as cocaine and methamphetamines. We have cases with children who have broken bones, who have been raped, starved, and subjected to the unimaginable. The physical and emotional damage to these children must be addressed. The difficult decision as to what services to provide, when and if to return children, and when and if to terminate parental rights is not a matter to be rushed through the system so we can brag about numbers.

Parents sometimes need time to complete drug rehabilitation, outpatient treatment, obtain housing, and do that which is needed to provide a safe and stable home for their children if and when they are returned. Granting more time often decreases final orders of termination and/or permanent managing conservatorship by the department and/or permanent managing conservatorship to a nonrelative. In my experience handling these cases, it is often the parents who request more time to engage in services or to get their affairs in order. In my experience, the District Attorney rarely, if ever, asks for a continuance.

In cases where the Department has TMC, the children are placed in the home of a relative. One of our jobs during these hearings is also to find relative placements for the child. The 360<sup>th</sup> District often sets judicial reviews between the statutory required hearings to see if we can examine proposed relative and fictive kin placements or if services need to be adjusted for the parents and children.

Spending time pretrial to ensure the parents have the care they need and finding family placements that may be more appropriate while ensuring the child is receiving appropriate care is exceptionally important. Repeatedly removing a child from failed reunifications or placement also creates a great deal of chaos in a child's life. I am certain that every judge, including Judge Kim, sees the importance of this delicate balance.

6. I feel confident that the cases referred to the 360<sup>th</sup> District Court, as well as the other Family District Courts, will be handled with consistency and efficiency. I am perplexed as to why Judge Kim believes that the services, which are provided by the Department, not the court, will be disrupted by this transition. All the Family Law judges understand the importance of stressing the need to complete services, particularly as it relates to

161.001(2)(O) of the Texas Family Code, which allows for termination when services are not completed under certain circumstances. I do not see that this will cause an increase in termination on "O grounds."

7. Please see my response to paragraph 3 above regarding objections to Associate Judges. I have a great deal of confidence in the Associate Judges in Tarrant County. We have policies in place to prevent delays caused by an objection to an Associate Judge.
8. I concur with Judge Kim that another District Court may be needed; however, that is neither a quick nor a guaranteed process. The Office of Court Administration has a process of gathering data to make recommendations for the next Legislative Sessions. It will be helpful to have all CPS cases in one courthouse where the studies may be done to facilitate this process.
9. This plan simply moves the place where the cases are heard but does not change the statutory deadlines and settings on this case. We have discussed ensuring dates do not change. The judges will work together to help each other in this process. We have six qualified District Judges and six qualified Associate Judges. There may be another Associate Judge. This plan places all hearings in one building and allows all District Attorneys to be in one place.
10. The plans for the new Juvenile Courthouse have been made but can be changed. This may save the county money if that is done.
11. The concept of setting a jury trial in a case involving involuntary termination of parental rights with one or two weeks' notice is ludicrous. I cannot imagine that it is probable that the district attorney, the mother's attorney, the father's attorney, another possible father's attorney, the attorney ad litem/guardian ad litem for the child, witnesses, and all the other parties to a case can be noticed and be ready for a jury trial on whether or not the fundamental right to parent should be forever terminated on such short notice.

If a dismissal date is missed, the case is dismissed automatically by statute and the court is divested of power over the case. If this is happening "many times," then this justifies moving the cases. This Court does not and will not miss statutory deadlines. Judge Kim admits in his letter that "There are many times when a dismissal date has been missed by all parties and a trial must be provided, posthaste."

12. I believe all the Family District Judges of Tarrant County who already handle these cases understand the priority of CPS cases. I have analyzed this situation, and I can absorb the cases requested of me. Instead of one District Judge and three associate judges, we have six District Judges and six Associate Judges.

13. Sealing cases does not create a new case number, nor does it skew the number of juvenile cases. Please also see my response to paragraphs 15 and 16 below.
14. The Family District Courts do maintain busy dockets. We maintain about 2700 cases on our each of our six respective dockets in any given time. We each dispose of between 300 to 400 cases a month. The addition of 50 cases on our docket will increase our case load by about 2%. After analyzing the data, I believe that we can absorb these cases.
15. I concur that this will add to the efficiency of the ever-increasing juvenile matters. I will not take a position on a juvenile drug court at this time, but I believe this is an idea that should be discussed with the Commissioner's Court.
16. I believe that paragraph 16 in Judge Kim's letter punctuates the need for this transition. I believe that paragraphs 15 and 16 of the Judge Kim letter each show, that despite the ire of Judge Kim's supporters, Judge Kim seems to see the benefit to this plan. However, if I am misunderstanding his response, I hope he corrects me.

It is being suggested that this action is being done because Alex Kim "stands up" to Child Protective Services. To suggest that a judge "stands up" to a litigant that stands before him is to suggest that the judge has an interest in the outcome in the matter and will engage in judicial activism. I will always presume that my colleagues on the bench do not attempt to "stand up" for or against any litigant in his or her court unless someone proves otherwise.

Most importantly, this is mandated by local rules. We are charged with following the law. We are not charged with making the laws. We can change local rules if we so desire, but that is a process that takes time. We cannot violate them. Tradition does not override the law.

I apologize for the length of this letter. Thank you in advance for your time and serious consideration of this matter.

Sincerely,



Judge Patricia Baca Bennett  
360<sup>th</sup> Judicial District Court  
Tarrant County, Texas