



March 30, 2020

SENT VIA E-MAIL

Joanne Southey
Deputy Chief Counsel/Child Advocacy
Civil Enforcement Division
Oregon Department of Justice
joanne.southey@doj.state.or.us

Rebecca Jones Gaston
Director, Child Welfare
Oregon Department of Human Services
Rebecca.JonesGaston@dhsosha.state.or.us

Dear Ms. Southey and Ms. Jones Gaston,

We are writing to share ongoing concerns regarding the response of the Department of Human Services-Child Welfare to the COVID-19 pandemic. On March 17, 2020, YRJ sent a letter outlining concerns to Department of Human Services-Child Welfare leadership and urging immediate action to protect the rights and well-being of children and families in the child welfare system.

That letter encouraged DHS to refrain from making blanket determinations reducing parent-child visitation and to instead, as required by Rule¹, maintain individualized visitation plans, taking into account safety and well-being, the available use of technology, and importance of parent-child contact to the well-being of children in foster care. Instead, on March 24, DHS proceeded to further restrict parent-child visitation, eliminating face to face contact entirely in DHS offices and cobbling together ad-hoc contact plans without accounting for each child's unique circumstances.

DHS' response to the current pandemic should be based in the expertise of public health advisors while being not more restrictive on family rights than necessary. While DHS' unilateral actions may be the most conservative response to managing parenting time in light of COVID-19, the overbreadth of this infringes on the rights of Oregon families, risks further traumatizing children in foster care, and has inequitable impacts on the most vulnerable families in Oregon's child welfare system. Most importantly, DHS actions are not tailored to meet the needs of children and parents.

¹ Oregon Administrative Rule 413-070-0830



YRJ and the ACLU of Oregon continue to have serious concerns about (1) the harms caused by blanket suspension of in-person visitation; (2) the lack of transparency in the DHS COVID-19 response efforts; (3) the information and services available to system-involved families who may have been exposed to COVID-19 by their contacts with system staff; (4) the involvement of stakeholders in the agency’s decision-making.

1. Visitation plans should be changed collaboratively on a case-by-case basis.

YRJ and the ACLU of Oregon urge DHS to develop visitation plans in collaboration with the parties in each case, in a manner that allows counsel for parents, counsel for children, and CASA to fully participate in mutual problem-solving. We’ve heard from foster parents who are concerned and confused by DHS actions regarding visits. One foster parent, a grandparent, wondered if her granddaughter would be able to see her mother as she had just a few days before. We’ve heard from frustrated parents, including a mom who is homeless and, in light of public building closures, has no way to charge her phone and will lose contact with her child. These stories highlight the unnecessary harms and inequities of a one-size fits all approach.

The Children’s Bureau shares our concerns, strongly discouraging the issuance of blanket rules that are not specific to individual families. According to the Children’s Bureau, “doing so is contrary to the well-being and best interest of children, may contribute to additional child trauma, and may impede the likelihood of reunification.”²

Consistent with the guidance provided by the Children’s Bureau in its March 27 letter, we request that DHS continue to meet its obligation to ensure that meaningful, frequent family time continues, to develop individualized family time plans, to ensure parents have access to cell-phones and computers with internet access to ensure virtual connections when in-person family time is not possible, and to collaborate with attorneys.

2. The DHS response to COVID-19 must be transparent, especially for families involved in the system.

As described in YRJ’s March 17, 2020 letter to DHS, we are concerned about a lack of transparency. YRJ asked DHS to provide timely and consistent communication to parents about how social distancing and other COVID-19 actions are impacting their children. We have not received any information from DHS as to how DHS is communicating with parents and continue to be concerned that parents, particularly those with little access to technology, are not receiving this critical information from the agency obligated to provide it.

Our transparency concerns continue to grow. On behalf of DHS, on March 20, the Department of Justice contacted juvenile court judges, *ex parte*, to request blanket orders suspending

² Letter from Jerry Milner, Associate Commissioner. Children’s Bureau, to child welfare legal and judicial leaders dated March 27, 2020.



visitation between parents and children. While DOJ has since clarified their intent, these actions are cause for concern. In the response of Ms. Jones Gaston to YRJ's letter, DHS expressed an interest in working together with system partners. However, instead, DHS has again unilaterally and arbitrarily further restricted parent-child contact by suspending most face to face visitation for the next two weeks. We urge DHS to provide more timely and transparent communications.

3. Youth and families have the right to be notified and supported when they are exposed to COVID-19.

YRJ and the ACLU of Oregon are concerned about the DHS strategy regarding notification of possible COVID-19 exposure, the ability to effectuate quarantine, and the procedure by which children and foster parents are able to access testing and treatment. Our communication with foster parents leads us to conclude that information being provided is inconsistent and inadequate. We request DHS distribute its policies and procedures regarding COVID-19 notification and access to care to parents, children, foster parents, and stakeholders.

4. DHS will make better decisions if it works with stakeholders in the community.

While YRJ previously raised concerns with DHS in the March 17 letter, the DHS response and subsequent actions did little to alleviate the serious concerns YRJ and the ACLU of Oregon have about Oregon families. Because information is changing so rapidly, we request a meeting to discuss how we can promote collaboration and transparency in protecting the health of Oregon's families without breaking them apart. In particular, we welcome the opportunity to discuss a proposed solution that allows for individualized visitation planning based on the needs of the child and ensures children and parents receive services and treatment. We must work together to ensure that this pandemic does not contribute to lengthy family separations or delayed reunification for children and parents.

Please let us know your availability for this conversation in the next week.

Thanks you for considering our concerns.

Sincerely,

A handwritten signature in black ink that reads 'Amy S Miller'.

Amy Miller
Executive Director
Youth, Rights & Justice

A handwritten signature in black ink that reads 'Kelly Simon'.

Kelly Simon
Interim Legal Director
ACLU of Oregon