

Special Master Recommendations to the Court

<p>The Special Masters, Kevin Ryan and Francis McGovern, present these recommendations in accordance with the various orders of the Court in M.D. et al. v. Abbott et al., CA 2:11-CV-00084. This report is designed “ ... to help the State implement the Goals outlined ... ” in the Court’s Memorandum Opinion and Verdict of the Court of December 17, 2015. More specifically, this report is designed “ ... to help craft the reforms and oversee their implementation” and are “... viewed as recommendations.” This report does not address any legal issues; legal issues are reserved for the Court. This report is based on the evidentiary record presented in the trial of this case and presentations and discussions by and with the parties. The parties have cooperated fully in providing information requested and in consulting with the Special Masters. All recommendations are made with respect only to children in the PMC class, and those assigned to them.</p>		
Implementation Steps/Processes/Tasks	Implementation Dates	Monitoring Methodology
<p>1. Since the Court concluded, "When DFPS staff visit or call a foster child, the caregiver must allow the staff member and the child to speak privately, unless the staff member agrees that it would be unsafe. If the meeting was not conducted in private, the staff must explain why in the child’s case files,"</p>		
<p>1.1 We recommend to reduce the risk of this harm to PMC children that DFPS policy require that caseworkers’ visits with children include quality time with the child separate from the caregiver(s) and other children, if the child is verbal, such as, for example, language that is already in part included by DFPS in Section 6311.2 of the CPS Policy Manual. Former PMC children testified to not seeing their caseworkers privately and regularly, even as they suffered in placement and experienced abuse.</p>	<p>We recommend the policy be effective 3 months following the Court’s Order.</p>	<p>We recommend this include review of the CPS Policy Manual and a case record review by the Special Masters.</p>
<p>1.2 We recommend to reduce the risk of harm to PMC children that, as part of its caseworker training program for new employees, DFPS provide adequate training on its child visitation policies to all caseworkers with responsibility for visiting children in the PMC class, specifically requiring that visits with PMC children include quality time with the child separate from the caregiver(s) and other children, if the child is verbal, such as, for example, language that is already in part included by DFPS in the CPS Policy Manual, Section 6311.2.</p>	<p>We recommend the policy be effective 3 months following the Court’s Order.</p>	<p>We recommend DFPS report semi-annual performance detail on caseworkers' training to the Court.</p>
<p>1.3 We recommend to reduce the risk of harm to PMC children that DFPS ensure that monthly face-to-face visits between CVS caseworkers and children in the PMC class occur as required and that DFPS report on same to the Court semi-annually. Former PMC children testified to not seeing their caseworkers privately and regularly, even as they suffered in placement and experienced abuse.</p>	<p>We recommend the policy be effective 3 months following the Court’s Order.</p>	<p>We recommend the methodology be developed by the Special Masters following consultation with DFPS and approved by the Court.</p>
<p>2. Since the Court concluded, "DFPS paperwork and electronic filing system, including IMPACT, CLASS, and the External files, must become more efficient. Each child should have a readily accessible and organized case file, comprised of all records pertaining to that child. The Court was routinely frustrated at the disorganization, duplication, and inconsistency in the foster children’s case files. Caseworkers should be able to spend more than 26% of their time with foster children,"</p>		
<p>2.1 We recommend to reduce the risk of harm to PMC children that DFPS submit a plan with specific timeframes, subject to Court approval, to ensure that DFPS staff and contractors working with PMC children have access to all the case information they need to serve children in one centralized place. As the Court observed in the December 2015 Opinion, based in part on more than 358,000 pages of case record material contained in Defendants’ Exhibit 120, "The problems of inadequate and incomplete caseworker documentation are considerably magnified by the way in which DFPS maintains foster children’s case files. Children’s records are not kept in a single location nor are they consistently maintained in chronological order." The DFPS plan should ensure that DFPS caseworkers and supervisors serving PMC children, as well as CASA staff and volunteers, and SSCC staff in Foster Care Redesign regions, have access to an integrated, current, complete and accurate case record for PMC children on their caseloads, including, for example, the child's current status and permanency goal; the child's Transition Plan (where applicable); the child's placement information and all safety-related and licensure/verification information about the child's placement, including investigation and inspection reports, enforcement actions and internal reviews conducted by CPAs; the child's historic and current caseworker(s) and supervisor(s), with corresponding contact information; the child's complete medical, dental, educational and mental health information and records.</p>	<p>We recommend DFPS submit the plan to the Court within 3 months of the Court’s Order.</p>	<p>We recommend the Special Masters confer with DFPS and develop a monitoring methodology once the plan is approved by the Court.</p>
<p>3. Since the Court concluded, "DFPS shall include an updated portrait photograph of each child in their respective case files. The Special Master will recommend how frequently the photograph must be updated. Each photograph shall include the date it was taken, and be organized and easily retrievable in the case files,"</p>		

Special Master Recommendations to the Court

Implementation Steps/Processes/Tasks	Implementation Dates	Monitoring Methodology
<p>3.1 We recommend to reduce the risk of harm to PMC children that DFPS policy require, when a child comes into the PMC class, a photograph must be taken of the child and placed in the child’s case record promptly. We recommend at least one updated photograph be taken each year the child remains in care and placed in the file, such as is already required by DFPS, for example, in Section 6316 of the CPS Policy Manual. We recommend the policy require the date of the photograph be recorded in the child’s case record, such as, for example, is already required by DFPS in Section 6316 of the CPS Policy Manual. We recommend DFPS implement the policy.</p>	<p>We recommend the provision become effective upon issuance of the Court’s order.</p>	<p>We recommend a policy review and a case record review by the Special Masters to verify implementation.</p>
<p>3.2 We recommend to reduce the risk of harm to PMC children that DFPS policy require for PMC children under the age of 3 updated photos be taken of the child at least semi-annually, and the date of the photograph be recorded in the child’s case record. We recommend DFPS implement the policy.</p>	<p>We recommend the policy be effective 3 months following the Court’s Order.</p>	<p>We recommend the methodology be developed by the Special Masters following consultation with DFPS and approved by the Court.</p>
<p>3.3 We recommend to reduce the risk of harm to PMC children that as part of its new-worker training program, DFPS provide adequate training on how caseworkers can use their DFPS-issued smart phones to photograph a child and upload the photograph to the DFPS child welfare IMPACT database.</p>	<p>We recommend the provision become effective in new worker training upon issuance of the Court’s order.</p>	<p>We recommend the Special Masters undertake a review of training materials and training classes.</p>
<p>4. Since the Court concluded "DFPS shall establish, staff, and maintain a 24-hour hotline for receiving and responding to reports of abuse and neglect. The hotline’s phone number must be readily available and displayed prominently in all foster care residential facilities. Foster children must be allowed telephone access to reach out to this 24-hour system, free from observation,"</p>		
<p>4.1 We recommend to reduce the risk of harm to PMC children that DFPS operate a statewide reporting system for allegations of child abuse and neglect, such as, for example, the Texas Abuse Hotline that is currently administered by Statewide Intake (SWI) 24 hours a day, 7 days a week.</p>	<p>We recommend the provision become effective upon issuance of the Court’s Order.</p>	<p>We recommend a review of hotline operations by the Special Masters.</p>
<p>4.2 We recommend to reduce the risk of harm to PMC children that DFPS ensure PMC children have the right to report abuse, neglect, exploitation, or violation of personal rights without fear of punishment, interference, coercion, or retaliation, such as, for example, is already expressed in the DFPS Minimum Standards for Child-Placing Agencies (CPAs) (currently Section G, Children’s Rights).</p>	<p>We recommend the provision become effective upon issuance of the Court’s Order.</p>	<p>We recommend this include a review of Minimum Standards for Child Placing Agencies and any other related materials by the Special Masters.</p>
<p>4.3 We recommend to reduce the risk of harm to PMC children that DFPS ensure PMC children have the right to report abuse, neglect, exploitation, or violation of personal rights anonymously and privately to a 24-hour hotline for receiving and responding to reports of abuse and neglect, such as, for example, language contained in the proposed DFPS amendments to RCCL Minimum Standards for CPAs and GRO.</p>	<p>We recommend the provision take effect upon issuance of the Court’s Order.</p>	<p>We recommend this include a review of Minimum Standards for Child Placing Agencies and any other related materials by the Special Masters.</p>
<p>4.4 We recommend to reduce the risk of harm to PMC children that DFPS ensure all reports to the 24-hour hotline, referenced by the Court above, regarding children in the PMC class be appropriately screened and, where warranted, investigated thoroughly. The Court concluded in the December 2015 Opinion that DFPS’ "approach to child abuse keeps the confirmed reports of abuse in care findings artificially low." We recommend that DFPS commence and complete investigations of maltreatment of PMC children timely, consistent with DFPS policy. We recommend DFPS report maltreatment to PMC children on a semi-annual basis to the Court. Testimony during the trial indicated that DFPS could not accurately report from the IMPACT system on the timely closure of abuse and neglect investigations, so we recommend DFPS submit to the Court a data plan to track and report accurately the commencements, extensions and closures of maltreatment investigations.</p>	<p>We recommend these provisions take effect upon issuance of the Court’s Order. We recommend the data plan be submitted within 2 months of the Court’s Order.</p>	<p>We recommend qualitative case record reviews for PMC maltreatment investigations and hotline screening reviews by the Special Masters. For DFPS’ maltreatment reports to the Court and reports to the Court on timeliness of investigations, we recommend the Special Masters develop a methodology following consultation with DFPS, subject to approval of the Court.</p>
<p>4.5 We recommend to reduce the risk of harm to PMC children that DFPS ensure its contracted CPA residential providers (such as residential treatment centers and group homes, but not including foster homes or therapeutic foster homes) maintain in each facility where PMC children are housed, a landline phone that connects directly to the DFPS 24-hour hotline, such as, for example, the blue phone system currently used by Texas for children in its juvenile justice system. We recommend DFPS require that all foster homes, foster group homes and therapeutic foster homes housing children in the PMC class maintain a landline phone accessible to the child in the home, with the toll-free hotline number appended to the landline.</p>	<p>We recommend the policy be effective 3 months following the Court’s Order.</p>	<p>We recommend RCCL staff verify phone access in the residential treatment centers and group homes as described, and CVS caseworkers verify phone access in foster homes, foster group homes and therapeutic foster homes as described, subject to verification by the Special Masters.</p>

Special Master Recommendations to the Court

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<p>4.6 The Court found multiple occasions where children alleged physical, sexual, and verbal abuse to DFPS staff but the allegations were not relayed to the hotline and investigated. Therefore to reduce the risk of harm to PMC children we recommend DFPS develop, publish and train all affected individuals on policy that requires all DFPS staff, foster parents, and staff of SSCCs, CPAs, GROs and RTCs to report all allegations of abuse and neglect of children in the PMC class to the hotline for investigation.</p>	<p>We recommend the policy be effective 3 months following the Court's Order.</p>	<p>We recommend the Special Masters verify the policy and training, and review additional data and information, including licensing reviews, to assess whether allegations of PMC child abuse and neglect are being referred to the hotline for investigation.</p>
<p>5. Since the Court concluded "DFPS shall improve its programs and outreach for children who will age out of foster care so that more children take advantage of these programs,"</p>		
<p>5.1 We recommend to reduce the risk of harm to PMC children that DFPS submit and implement a plan with specific timeframes, subject to Court approval, to provide services, programs, and benefits through an individualized case management model to prepare youth, age 14 and older in the PMC class, for life after they emancipate from DFPS custody. The goal is to assist youth avoid the heightened risk of homelessness and re-victimization, described in the trial transcript repeatedly, which was encountered by youth who aged out of DFPS custody without a forever family and without having developed the skills needed to transition into adulthood. DFPS reported to the Special Masters that 1,180 children emancipated from DFPS custody in 2015. We recommend the DFPS plan include: A. The commitment to begin individualized case planning with youth beginning at age 14, such as, for example, ensuring that youth have a first Circles of Support (COS) or Transition Planning meeting upon turning 14 years old. DFPS could decide that COS or Transition Planning meetings will then take place in conjunction with a permanency planning meeting every 4 months until the youth exits the PMC class. B. Developing a youth's Transition Plan, and periodically re-assessing the youth to determine progress toward goals. C. A schedule for monitoring and updating youths' case plans with an eye toward building skills over the span of time a PMC youth is receiving independent living preparation services. D. Providing driver's education classes for PMC youth who are old enough to receive a learner's permit and opt to take driver's education. E. Working with the youth's Attorney Ad Litem (AAL) to facilitate having any eligible criminal or juvenile records for offenses for which the youth was adjudicated or convicted sealed or expunged. F. Ensuring every PMC youth who exits the class has a copy of his or her birth certificate. G. Ensuring that DFPS assesses youth for individual disabilities and eligibility for corresponding benefits and submits, as appropriate, applications for federal Supplemental Security Income (SSI) on behalf of PMC children deemed eligible. H. Committing that PMC youth have safe, stable housing upon emancipation. Once approved by the Court, we recommend DFPS implement the plan.</p>	<p>We recommend the plan be submitted to the Court within 3 months of the Court's Order.</p>	<p>We recommend the Special Masters confer with DFPS and develop a monitoring methodology once the plan is approved by the Court.</p>
<p>5.2 We recommend within 6 months of a child entering the PMC class that DFPS ensure the child's birth certificate has been secured and placed in the child's case record.</p>	<p>We recommend the provision become effective upon issuance of the Court's order.</p>	<p>We recommend a case record review by the Special Masters.</p>
<p>5.3 We recommend to reduce the risk of harm to PMC youth that, when they do not opt to extend care and are eligible to exit, prior to their exiting the PMC class, DFPS policy require the agency to assist emancipating youth in creating e-mail accounts (as described on DFPS' website here: https://www.dfps.state.tx.us/txyouth/legal/personal_docs.asp) so that they may receive encrypted copies of personal documents and records, in addition to receiving copies of originals. If PMC youth do not opt to extend care, we recommend that DFPS develop a plan with specific timeframes, subject to Court approval, to ensure youth know about, and can access, benefits the youth is eligible to receive once they emancipate, including, for example, a transitional living allowance, aftercare room and board assistance, and the DFPS Education and Training Voucher Program.</p>	<p>We recommend the DFPS email program policy take effect within 2 months of the Court's Order. We recommend DFPS submit the plan within 6 months of the Court's Order and implement the plan upon approval by the Court.</p>	<p>We recommend verification of email accounts and document transmission through records review by the Special Masters. We recommend the Special Masters develop a monitoring methodology for the plan once reviewed and approved by the Court.</p>
<p>6. The Court concluded "All PMC children shall be entitled to an attorney ad litem and a CASA volunteer, as well as any other representative appointed to TMC children that the Special Master determines is necessary for PMC children's safety and well-being," and we have no further recommendations.</p>		

Special Master Recommendations to the Court

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<p>7. Since the Court concluded, "The Special Master shall recommend any provision beyond the Court's Goals that are deemed necessary to cure the State's constitutional violations outlined in this Opinion," recommend the following:</p>		
<p>7.1 The Court observed in the December 2015 Opinion that "rape, abuse, psychotropic medication and instability are the norm" for PMC children, and many children's records, which were made available to the Special Masters as exhibits to the case, were missing important health information. The children's records include serious concerns of physical and sexual abuse but the records indicate children were not timely (or ever) examined by doctors to determine if they had been assaulted. Injuries went untreated. Necessary medical follow up did not occur. Incomplete and missing healthcare information was a common feature in the records. In order to reduce the risk of these harms to children, we recommend that DFPS develop and implement a HealthCare Plan for PMC children with specific timeframes subject to the review and approval of the Court. We recommend DFPS consult "Fostering Health: Healthcare for Children and Adolescents in Foster Care," by the American Academy of Pediatrics and include in the HealthCare Plan: A. Annual medical examinations for children in the PMC class; B. The establishment of a medical home for all children in the PMC class; C. The provision of necessary follow up treatment and medical care, including for acute and chronic illnesses; D. The provision of up-to-date immunizations; E. The provision of annual dental examinations for PMC children 3 years and older; F. The provision of mental health assessments by a qualified professional for all PMC children within 60 days of entry to the PMC class, and the delivery of necessary follow up care as needed; G. Establishment of a complete medical record (also known as a medical passport) in the child's case record, which is updated timely and shared with the child's caregivers at the time of placement and re-placement; H. The establishment of Informed Consent protocols for the administration of psychotropic medication by a prescribing physician to a PMC child, based upon documented evaluation and diagnosis, and the routine, independent review of psychotropic medications by a qualified physician. (In the December 2015 Opinion, the Court, recounting one of the children's histories, wrote, "In January 2006, two months after making physical abuse outcry, five-year-old J.V.. had his first of many visits to a psychiatrist to address behaviors of kicking, hitting, and defiance. He was prescribed Focalin for ADHD, although there is no record of an evaluation.")</p>	<p>We recommend the HealthCare Plan be submitted to the Court within 6 months following the Court's Order and implemented upon approval of the Court.</p>	<p>We recommend the Special Masters confer with DFPS and develop a monitoring methodology once the plan is approved by the Court.</p>
<p>7.2 We recommend to reduce the risk of harm to PMC children that DFPS propose to the Court a plan, with specific timeframes and activities, to identify and address PMC children's exposure to traumatic events such as, for example, abuse, neglect, removal from their birth families, placement moves and sibling separation.</p>	<p>We recommend the provision become effective within 2 months of the Court's Order.</p>	<p>We recommend the Special Masters develop a monitoring methodology for the plan once reviewed and approved by the Court.</p>
<p>8. Since the Court concluded, "CVS Caseworkers: (1) DFPS must track primary CVS caseworker caseloads on a child-only basis. The Special Master shall recommend whether tracking should be categorized separately for full-time and part-time primary CVS caseworkers, and how tracking should be categorized on a region and county-level. The State cannot include in the calculations secondary workers, workers in training, or fictive workers created out of overtime. The State is welcome to continue tracking caseloads by stages, but not in lieu of child-only tracking," And...</p>		
<p>9. Since the Court concluded, "CVS Caseworkers: (2) DFPS must complete a Workload Study to determine the time required for caseworkers to adequately perform their tasks. DFPS will specify how long it takes to complete each task. The Special Master shall recommend how frequently DFPS must complete additional workload studies," And...</p>		
<p>10. Since the Court concluded "CVS Caseworkers: (3) The Special Master shall recommend the point at which caseloads are manageable for full-time and part-time CVS caseworkers, taking into account times of crises. What is manageable is to be understood as the level at which caseworkers are able to perform their basic functions and not compelled to quit at an unreasonable rate. In other words, a manageable caseload is the level at which children are free from an unreasonable risk of harm," And...</p>		
<p>11. Since the Court concluded, "CVS Caseworkers: (4) DFPS must hire and maintain enough primary CVS caseworkers to ensure that caseloads are manageable in each county in the State," we report and recommend the following:</p>		

Special Master Recommendations to the Court

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<p>11.1 DFPS produced to the Special Masters an Executive Summary of a Work Measurement Study conducted from August 1, 2015 through March 31, 2016, for caseworkers engaged in certain tasks, including case profiles most often associated with children’s PMC cases. DFPS noted, “It is important to emphasize this type of study only addresses the quantitative measure of how much time was actually spent on various casework activities and does not address any qualitative measures or address the issue of how much time should be spent on these activities.” The Work Study methodology blended the work experiences of “I See You Workers” with the work experiences of CVS Workers, even though DFPS defines their responsibilities to children differently in their job descriptions. This inclusion of the I See You Workers may have had the effect of decreasing the actual average case time spent on case profiles most often associated with children’s PMC cases because DFPS expects less time to be expended per child by I See You Workers than by CVS Workers. Nonetheless, the DFPS Executive Summary concludes, and the DFPS study author confirmed to the Special Masters, that DFPS caseworkers expended an average of 9.7 hours per month on case profiles most often associated with PMC children, and that these workers had an average of 137.9 hours per month to spend on their casework. The study’s author reported to the Special Masters that dividing the average number of case hours (137.9) by the average number of hours per month spent on case profiles most often associated with PMC cases (9.7) yields the average caseload for CVS workers serving children in the PMC class based on the amount of time available to them: 14 cases. This number, which represents DFPS’ reported average PMC caseload, strongly informs our recommendation to the Court. The Special Masters did not independently verify whether CVS caseloads for workers serving PMC children were, in fact, averaging 14 children per worker. The December 2015 Opinion of the Court concluded, based on evidence presented at trial, that CVS caseloads are unmanageable. Although we do not recommend a fixed caseload cap, which would inhibit DFPS’ ability to assign cases, we do recommend the Court adopt DFPS’ own finding and we recommend DFPS implement a caseload standard in the range of 14 to 17 PMC cases for CVS caseworkers who are assigned to the role of serving PMC children and who work full-time in that role.</p>	<p>We recommend DFPS commence efforts to implement the recommended standard upon issuance of the Court’s Order and complete statewide implementation within 24 months of the Court’s Order.</p>	<p>We recommend the Special Masters following consultation with DFPS develop a methodology to track, verify and report on the caseloads of CVS workers who serve PMC children once the Court issues the Order. We recommend tracking be categorized separately for full-time and part-time primary CVS caseworkers, and tracked by region, county and office. We recommend caseload rates be pro-rated for CVS staff who are less than full-time. We recommend caseload rates for CVS staff who spend part-time in caseload carrying or supervisory functions and part-time in other functions be analyzed as if they are part-time staff and their caseloads pro-rated accordingly. We recommend that, for CVS workers with mixed caseloads, for example caseworkers serving both PMC and TMC children, the methodology afford each TMC child the same weight as a PMC child. We also recommend that DFPS complete Workload Studies for CVS workers every 5 years, using a methodology approved by the Court.</p>
<p>11.2 We recommend to reduce the risk of harm to PMC children that DFPS submit a plan with specific timeframes, subject to Court approval, to ensure that CVS staff who serve children in the PMC class have caseloads between 14 and 17 children statewide. We recommend DFPS propose to the Court a schedule for implementation, including the percentage of affected caseworkers who will have caseloads within the recommended range 12 months following the Court’s Order, 18 months following the Court’s Order and 24 months following the Court’s Order.</p>	<p>We recommend DFPS submit the plan to the Court within 3 months of Court’s Order.</p>	<p>We recommend the Special Masters following consultation with DFPS develop a methodology to track, verify and report on the caseloads of CVS workers who serve PMC children once the Court issues the Order. We recommend tracking be categorized separately for full-time and part-time primary CVS caseworkers, and tracked by region, county and office. We recommend caseload rates be pro-rated for CVS staff who are less than full-time. We recommend caseload rates for CVS staff who spend part-time in caseload carrying or supervisory functions and part-time in other functions be analyzed as if they are part-time staff and their caseloads pro-rated accordingly. We recommend that, for CVS workers with mixed caseloads, for example caseworkers serving both PMC and TMC children, the methodology afford each TMC child the same weight as a PMC child. We also recommend that DFPS complete Workload Studies for CVS workers every 5 years, using a methodology approved by the Court.</p>
<p>12. Since the Court concluded, “CVS Caseworkers: (5) DFPS must significantly lower its primary CVS caseworker turnover rate,”</p>		
<p>12.1 We recommend in order to reduce the risk of harm to PMC children that DFPS propose and implement a plan to the Court with specific timeframes to reduce CVS caseworker turnover, subject to Court approval, which includes: A. A model of graduated caseloads for newly hired and qualified caseworkers through the first 9 months of their onboarding and training. B. Phasing in a mentorship program for newly hired caseworkers by more experienced CVS staff, such as, for example, the program described in the CPS Mentor Handbook from December 2015, which affords the assigned mentors reduced case assignments in consideration for the time they devote to mentoring, coaching and supporting newly assigned CVS staff, and co-locates mentors and protégées whenever possible in the same unit. C. A model of training that balances field-based experiential learning with classroom-based learning, such as, for example, the current DFPS CPD model which, according to researchers at the University of Texas-Austin, is beginning to have a discernable, positive impact on CVS worker retention. D. A plan to complete implementation of the DFPS Child Protective Services Salary Study 2012 recommendations. E. A plan to implement a ratio of 1 supervisor for 5-6 CVS caseworkers within 18 months of the Court’s Order. F. An updated DFPS Child Protective Services Salary Study with proposals to address inadequate compensation as one of the main causes for caseworker turnover.</p>	<p>We recommend DFPS submit the plan to the Court within 4 months of the Court’s Order.</p>	<p>We recommend the Special Masters develop a monitoring methodology for the Plan once it has been reviewed and approved by the Court.</p>

Special Master Recommendations to the Court

Implementation Steps/Processes/Tasks	Implementation Dates	Monitoring Methodology
<p>13. Since the Court concluded, "CVS Caseworkers: (6) The Special Masters shall evaluate and recommend whether secondary CPU and I See You Workers should be maintained. If so, the Special Masters shall recommend provisions to make them more effective at protecting foster children from an unreasonable risk of harm,"</p>		
<p>13.1 We recommend to reduce the risk of harm to PMC children that DFPS decrease the significant number of PMC child placements out of children's home regions and catchment areas. Testimony during the trial indicated that "39% of PMC children are placed out of region." As the Court observed in the December 2015 Opinion, "Regional Director Bowman agreed that placing children far from home negatively affects the bonds and connections that children need to be emotionally healthy. Yet ... 60% of children are placed out of their home county. The combined effects of the inadequate array and frequent moves means that any stability a PMC child may gain in her initial placement is destroyed when she is relocated. For example, the Court counts at least four occasions where J.S. was sent over 200 miles to new placements. Likewise, K.E. was twice moved over 250 miles. Because K.E.'s 27 placement changes took her all over Texas, she attended at least 12 schools in ten years. Like many of the Named Plaintiffs, K.E. had to repeat grades and functions academically well below her age." Similarly, the Court wrote in the December 2015 Opinion, "Many of M.D.'s placements moved her far from her siblings, who were not in foster care, and her home community. She had 16 different primary and secondary caseworkers." We recommend DFPS propose a Placement Plan to the Court, (also mentioned in Recommendation 24.2 below), with specific timeframes, to substantially improve the percentage of PMC children placed in-region and in-catchment areas, over the next 24 months. Upon Court review and approval, we recommend DFPS implement that plan.</p>	<p>We recommend DFPS submit the Placement Plan to the Court within 6 months of the Court's Order.</p>	<p>We recommend DFPS semi-annually report the number of PMC children placed out of region; the number of PMC children placed out of county (and not placed in an adjacent county); the number of pmc children placed out of catchment area; and the number of PMC children assigned an I See You Worker. We recommend the Special Masters annually verify the placements of PMC children relative to their home regions and counties. We recommend the Special Masters develop a monitoring methodology for this plan once it has been reviewed and approved by the Court.</p>
<p>13.2 We recommend the Court order and review a Work Study of I See You Workers before determining whether I See You Workers should be maintained. DFPS reported to the Special Masters that 77 I See You Workers were responsible for serving 3,406 children (both TMC and PMC) on June 30, 2015, for an average caseload of 44 children per worker. That is a very high number of children given the complexity of the role designed by DFPS. According to the position description for the I See You Specialist provided to the Special Masters, they must "[m]ake monthly contact with children in conservatorship of DFPS who are placed outside of their home region and enter contacts in IMPACT, attending monthly medication reviews for children placed in residential treatment settings, assist primary workers with family visits and subsequent placement moves as needed. The courtesy worker will assure the child's needs are being met appropriately by the placement. The courtesy worker will also provide the primary worker with written information of any meeting/staffing and provide information to assist in the completion of the child's plan of service, common application and court report. The courtesy worker will facilitate parent and/or sibling visitation. The courtesy worker will provide resources to relative placements." To be effective in the position, I See You Workers must be familiar with PMC children's records, which are dense. As the Court's December 2015 Opinion notes, "it took the Court 462 hours just to read the 358,102 pages" from the 20 children's case files in the record. Twenty cases represents less than half the average caseload for I See You Workers reported by DFPS as of June 2016. Many of the children's records are tens of thousands of pages long; even guided by the Court's detailed analysis of each child's experiences in the December 2015 Opinion, it took the Special Masters and staff more than 225 hours to review those records. For example, M.D.'s case record was 32,401 pages long and included 45 audio files and 3 video files. S.A.'s record was 33,636 pages long, A.M.'s record was 33,432 pages long and J.S.'s record was 40,923 pages long. It would be very difficult, if not impossible, for I See You Workers to read, digest and update this amount of information for 44 children at any given time. Given the Court's conclusions in the December 2015 Opinion about the poor quality of I See You Workers' interactions with PMC children, we recommend the Court authorize the Special Masters to retain an expert to conduct a Workload Study and recommend to the Court whether to maintain I See You Workers and, if so, at what point their PMC caseloads are manageable. Until the submission to the Court of the Study, and in light of the substantial responsibilities assigned to I See You Workers in the DFPS job description, we recommend that DFPS adopt an interim caseload standard for I See You Workers, to reduce the risk of harm to PMC children, in the range of 22 to 25 children per I See You Worker, and submit to the Court a plan for implementing same. Upon approval by the Court, we recommend DFPS implement the plan. We do not recommend a fixed caseload cap.</p>	<p>We recommend the Special Masters retain an expert to conduct the I See You Worker Workload Study and share the study's findings with the Court and the parties within 9 months of the Court's Order. We recommend that the DFPS plan to implement the interim caseload standard for I See You Workers be submitted to the Court within 3 months of the Court's Order.</p>	<p>We recommend the Special Masters following consultation with DFPS develop a methodology to track, verify and report on the caseloads of I See You Workers who serve PMC children once the Court issues the Order.</p>
<p>13.3 To reduce the risk of harm to PMC children and enhance the quality of contacts between I See You Workers and PMC children, we recommend DFPS develop and implement a contact guide, which I See You Workers would complete during monthly visits with a child. We recommend the guide include the I See You Worker's assessment of the child's safety, including an assessment of the placement; a confirmation that the child was interviewed individually, separately and privately from the caregiver and other children; a discussion of the form(s) of discipline being used in the placement; a review of the child's medical, mental health, dental and educational needs; and other DFPS expectations of its staffs' interactions with the PMC children they supervise.</p>	<p>We recommend the Contact Guide be produced and implemented in the field within 6 months of the Court's Order.</p>	<p>We recommend a case record review by the Special Masters.</p>

Special Master Recommendations to the Court

Implementation Steps/Processes/Tasks	Implementation Dates	Monitoring Methodology
<p>13.4 The Court wrote extensively in the December 2015 Opinion about children who infrequently, or never, saw some of their CVS caseworkers, despite the enormous responsibilities assigned to those workers for the child's safety, care and permanency. To reduce the risk of harm to children in the PMC class, we recommend that DFPS require that when a child is assigned an I See You or secondary worker, the child's primary CVS caseworker must visit the child in-person or via available technology such as, for example, Skype, Facetime, and video conferencing, separate and apart from other children and caregivers, at least quarterly, in addition to the regular, in-person visits between the child and other assigned secondary caseworkers.</p>	<p>We recommend the provision become effective upon issuance of the Court's order.</p>	<p>We recommend the methodology be developed by the Special Masters following consultation with DFPS and approved by the Court.</p>
<p>14. The Court concluded "CVS Caseworkers: (7) The Special Master shall recommend other provisions deemed necessary to ensure that primary CVS caseworkers are able to protect foster children from an unreasonable risk of harm," and we have no additional recommendations.</p>		
<p>15. Since the Court concluded "CCL Investigations, Inspections, and Licensing: (1) DFPS must complete a Workload Study to determine the time requires for investigators and inspectors to adequately perform their tasks. DFPS will specify how long it takes to complete each task. The Special master shall recommend how frequently DFPS must complete additional workload studies," And...</p>		
<p>16. Since the Court concluded "CCL Investigations, Inspections, and Licensing: (2) The Special Master shall recommend the point at which caseloads are manageable for investigators and inspectors. What is manageable is to be understood as the level at which investigators and inspectors are able to perform their basic functions. In other words, a manageable caseload is the level at which children are free from an unreasonable risk of harm."</p>		
<p>16.1 DFPS has not commenced a Workload Study of RCCL Investigators and Inspectors, indicating to the Special Masters the agency's belief that caseloads for these staff are now manageable and that this function will transfer to the Texas Health and Human Services Commission next year. Of the 36 RCCL Investigators (I and II) as of June 30, 2016, DFPS reported 9 Investigators were responsible for more than 17 child abuse and neglect investigations. Absent a Workload Study, we cannot offer a data-informed recommendation to the Court at what point RCCL Investigators' and Inspectors' caseloads are manageable. We recommend a Workload Study, which will be even more valuable should investigative workloads grow if DFPS establishes accessible hotline phones as described in Recommendation 4.5 above, giving PMC children a way to reach the hotline. In addition to the Court's directive above to DFPS, the Court may wish, in order to reduce the risk of harm to PMC children, to order the Special Masters to retain an expert as part of their team to commence a Workload Study of RCCL Investigators and Inspectors to inform at what point RCCL Investigators' and Inspectors' caseloads are manageable.</p>	<p>If the Court orders the Special Masters to retain an expert to conduct the Workload Study, we recommend the expert submit conclusions to the Court within 8 months of the Court's Order. If the Court also, or alternatively orders DFPS to conduct this Workload Study, we recommend it deliver the study results to the Court within 8 months of the Court's Order.</p>	<p>We recommend a Workload Study be completed and submitted to the Court within 8 months of the Court's Order.</p>
<p>16.2 Because the investigation of child abuse and neglect among children in the PMC class is among DFPS' most important responsibilities, we recommend to reduce the risk of harm to PMC children that DFPS identify a discrete cohort of staff, for example a selection of RCCL staff, and exclusively assign them to the work of maltreatment investigations, except for remote, rural or substantially less populated areas of the State where exclusive assignment is impractical.</p>	<p>We recommend the establishment of specialized staff assigned exclusively to investigate abuse and neglect take effect 6 months following the Court's Order.</p>	<p>We recommend the Special Masters verify case assignments, meet with staff and supervisors.</p>
<p>17. Since the Court concluded, "CCL Investigations, Inspections, and Licensing: (3) PMU must conduct case readings to assess RCCL investigations in a manner and at a frequency deemed appropriate by the Special Master. The Special Master will recommend the appropriate method to correct dispositions and order corrective actions when PMU identifies deficiencies,"</p>		

Special Master Recommendations to the Court

Implementation Steps/Processes/Tasks	Implementation Dates	Monitoring Methodology
<p>17.1 We recommend to reduce the risk of harm to PMC children that PMU conduct case readings, and report results to the Court semi-annually, using a tool developed in consultation with the Special Masters.</p>	<p>We recommend DFPS begin the PMU case readings within 6 months of the Court's Order, using as the sample all PMC maltreatment investigations for the final six months of 2016.</p>	<p>Going forward, we recommend PMU confer with the Special Masters to identify the sample for the semi-annual reviews and that the Special Masters develop and implement a read-behind process involving the Special Masters.</p>
<p>18. Since the Court concluded "CCL Investigations, Inspections, & Licensing: (4) The Special Master shall recommend provisions to solve RCCL's unwillingness to institute corrective actions against violating facilities,"</p>		
<p>18.1 We recommend to enhance transparency, and reduce the risk of harm to PMC children, that DFPS make public on the agency's website all of the completed licensing inspections conducted by RCCL and/or its successive entities, redacting child identifying information and other information deemed confidential under law and regulation. We recommend DFPS post the full licensing inspection report, including: information regarding the reason for inspection, the full narrative inspection report, the outcome of the inspection including violations and whether RCCL implemented corrective or adverse action as the result of violations identified during the inspection. We recommend DFPS make public on its website all corrective action plans, required by RCCL and/or other successive entities, submitted by violating agencies. We recommend to enhance transparency and accountability that DFPS make public on its website the dates when RCCL accepts corrective action plans submitted by violating agencies and the status of corrective active plans.</p>	<p>We recommend DFPS submit the plan to the Court within 3 months of the Court's Order.</p>	<p>We recommend the Special Masters review RCCL data and information, and agency website information.</p>
<p>18.2 We recommend to reduce the risk of harm to PMC children that DFPS develop a plan with specific timeframes, subject to Court approval, to expand the array of enforcement actions available to DFPS for identified violations, including the ability of DFPS to suspend and close foster homes, foster group homes and therapeutic foster homes directly, even when verified and maintained by CPAs. We recommend upon Court approval, DFPS implement the plan and make public on its website all enforcement actions undertaken by the agency.</p>	<p>We recommend DFPS submit the plan to the Court within 3 months of the Court's Order.</p>	<p>We recommend the Special Masters develop a monitoring methodology for the Plan once reviewed and approved by the Court.</p>
<p>19. Since the Court concluded, "CCL Investigations, Inspections, and Licensing: (5) DFPS shall track child-on-child abuse, and categorize it as such. The Special Master shall recommend the most appropriate fashion to track child-on-child abuse bearing in mind that the information should be easy to retrieve and should be used to inform all placements and treatments. The Special Master shall also recommend how to categorize the initiators of child-on-child abuse, sensitive to the consequences of labeling children as "perpetrators." The Special Master shall also recommend if child-on-child abuse should simultaneously be categorized as neglectful supervision by the caregiver,"</p>		
<p>19.1 We recommend to reduce the risk of harm to PMC children that DFPS require all CPAs report to DFPS, and document, allegations of sexual abuse committed by a child against another child, such as, for example, is already required by DFPS in the current Minimum Standards for Child-Placing Agencies (currently Section 749.503). DFPS defines sexual abuse in this context as: "conduct harmful to a child's mental, emotional or physical welfare, including nonconsensual sexual activity between children of any age, and consensual sexual activity between children with more than 24 months difference in age or when there is a significant difference in the developmental level of the children; or failure to make a reasonable effort to prevent sexual conduct harmful to a child." In light of trial testimony that sexually abused children need a placement with no other children, (the Court summarized, "Defendants' and Plaintiffs' experts agreed that sexually abused children should live in single-child placements"), we recommend in Recommendation 23.1 (below) that DFPS provide a plan to the Court with specific timeframes documenting how it will track available "single child homes," that is, homes with no other birth, adoptive, relative or non-relative kinship or foster children present, and how it will match those placements to PMC children who, upon a thorough and documented assessment, are determined to need such a home. We recommend if DFPS places a sexually abused child in a setting with other children, the agency must first document in the child's case record why the child has not been placed in a single child home.</p>	<p>We recommend the provision become effective within 2 months of the Court's Order.</p>	<p>We recommend DFPS conduct the primary monitoring of CPAs for performance, and the Special Masters verify.</p>
<p>19.2 We recommend to reduce the risk of harm to PMC children that DFPS require all incidents of sexual abuse by a child against another child be immediately reported by foster caregivers, CPAs and GROs to a 24-hour hotline established by DFPS to receive, screen and refer for investigation reports of child abuse and neglect, such as, for example, the hotline run by DFPS' Statewide Intake.</p>	<p>We recommend the provision become effective within 2 months of the Court's Order.</p>	<p>We recommend RCCL monitor CPAs and GROs for performance, and the Special Masters verify performance.</p>

Special Master Recommendations to the Court

Implementation Steps/Processes/Tasks	Implementation Dates	Monitoring Methodology
19.3 We recommend to reduce the risk of harm to PMC children that DFPS investigate all reported incidents of sexual abuse by a child against a child for, at least, Neglect by the caregivers charged to supervise the child, such as in Neglectful Supervision and Neglectful Placement.	We recommend the provision become effective within 2 months of the Court's Order.	We recommend a case record review by the Special Masters.
19.4 We recommend to reduce the risk of harm to PMC children that DFPS ensure the child's case record prominently identifies PMC youth as having "sexually aggressive" behavior if the youth has sexually abused another child or is at high risk for perpetrating sexual assault. The designation "sexually aggressive" should be easy to search and retrieve in the child's case record, and easy for DFPS to track for all PMC children so described.	We recommend the provision become effective within 6 months of the Court's Order.	We recommend a case record review by the Special Masters.
19.5 We recommend to reduce the risk of harm to PMC children that DFPS ensure the child's case record prominently identifies a PMC youth as "sexually abused" if the child has been sexually abused by an adult or another youth. The designation "sexually abused" should be easy to search and retrieve in the child's case record, and easy to track for all PMC children so described. The Court observed in the December 2015 Opinion that DFPS had not identified PMC child D.I. as sexually abused, instead "referring to his rape in his case files as "problems getting along with the older foster kids," "sexual behavior," "a sexual act with some boys," and "participating in sex with other children in the home."	We recommend the provision become effective within 6 months of the Court's Order.	We recommend a case record review by the Special Masters.
19.6 We recommend to reduce the risk of harm to PMC children that DFPS ensure all CVS caseworkers serving PMC youth receive training on where to find and how to make the designations in PMC children's case records for youth with "sexually aggressive" behavior and "sexually abused" youth.	We recommend this be included as part of new worker training within 2 months of the Court's Order and that all CVS workers be trained within 6 months of the Court's Order.	We recommend DFPS certify worker training compliance to the Court.
19.7 We recommend to reduce the risk of harm to PMC children that DFPS propose a plan to the Court, with specific timeframes and activities, informed by PMU case record reviews of substantiated and unsubstantiated maltreatment investigations and other data and information, to reduce the incidence of maltreatment of PMC children, and implement the plan upon Court approval.	We recommend DFPS propose the plan to the Court within 6 months of the Court's Order.	Upon Court approval of DFPS' plan, we recommend the Special Masters confer with DFPS and develop a methodology for verification.
19.8 We recommend to reduce the risk of harm to PMC children that DFPS not place any child determined to be "sexually aggressive" or at high risk for perpetrating violence or sexual assault in any foster care placement with PMC foster children not so determined without an appropriate, documented assessment concerning the safety of all children in the placement.	We recommend these provisions take effect upon issuance of the Court's Order.	We recommend the Special Masters verify the placements of all PMC children designated with "sexually aggressive" behavior and whether the placements' safety assessments for all PMC children have been completed.
19.9 We recommend to reduce the risk of harm to PMC children that DFPS conduct an individualized needs assessment for every PMC child who has been sexually abused by an adult or another youth to determine their needs, including whether they need a therapeutic foster home and, if so, ensure the child receives appropriate services and a placement matching his/her needs.	We recommend these provisions take effect upon issuance of the Court's Order.	We recommend a case record review by the Special Masters.
19.10 We recommend to enhance transparency and to reduce the risk of harm to PMC children that DFPS publicly report the number of substantiated allegations of child maltreatment each month for children in the PMC class.	We recommend publication of monthly data effective within 2 months of the Court's Order.	We recommend the Special Masters confer with DFPS to establish what, if any, time lags in reporting are appropriate given agency practice and agency data verification efforts.
20. Since the Court concluded, "CCL Investigations, Inspections, and Licensing: (6) The Special Master shall recommend other provisions deemed necessary to ensure that RCCL protects foster children from an unreasonable risk of harm,"		

Special Master Recommendations to the Court

Implementation Steps/Processes/Tasks	Implementation Dates	Monitoring Methodology
<p>20.1 We recommend DFPS propose a plan with specific timeframes, subject to Court approval, which strengthens its monitoring and oversight of PMC children's placements using its full array of regulatory and contractual tools. We recommend the plan include, for example, the requirement that DFPS afford due consideration to all incidents of abuse, neglect, and/or corporal punishment occurring in the placements administered or supervised by a CPA or GRO at the time of its inspection/re-inspection and processing its application for verification/renewal. We recommend the plan extend DFPS' monitoring of placement agencies' obligation to report suspected child abuse or neglect to DFPS, by including, for example, provisions that require an immediate investigation by DFPS to determine the appropriate corrective action up to and including termination or modification of relevant portions of a contract for failure to report. We recommend DFPS fortify its regulatory and contractual enforcement tools such as, for example, establishing that a repeated failure by a placement agency within one year to report suspected child abuse or neglect shall result in a review of the contract agency's violations by DFPS senior leadership. We recommend upon Court approval, DFPS implement the plan on the timeline established by the Court.</p>	<p>We recommend DFPS submit the plan to the Court within 6 months of the Court's Order.</p>	<p>We recommend the Special Masters develop a monitoring methodology for the plan once reviewed and approved by the Court.</p>
<p>21. Since the Court concluded, "Inadequate Placement Array: (1) DFPS shall not allow unrelated children that are more than one service level apart (e.g., Moderate and Intense-level children) to be placed in the same room in any residential facility. The Special Master shall recommend if it is appropriate to allow unrelated children that are only one service level apart (e.g., Basic and Moderate-level children) to be placed in the same room in any residential facility," And...</p>		
<p>22. Since the Court concluded, "Inadequate Placement Array: (2) The Special Master shall recommend what age ranges of unrelated children are appropriate to be placed in the same room in any residential facility. The Court understands that larger age gaps may be more appropriate for younger children (e.g. a five-year-old and a ten-year-old in the same room) than for older children (e.g. a ten-year-old and a 15-year old in the same room),"</p>		
<p>22.1 We recommend to reduce the risk of harm to PMC children that unrelated PMC children with different service levels only be placed in the same room after a thorough and documented assessment by DFPS staff that certifies that such placement is safe and appropriate for each PMC child.</p>	<p>We recommend DFPS submit the plan to the Court within 4 months of the Court's Order.</p>	<p>We recommend the Special Masters develop a monitoring methodology for the plan once reviewed and approved by the Court.</p>
<p>22.2 We recommend to reduce the risk of harm to PMC children that by 6 months following the Court's Order, all PMC children under two years of age be placed in family-like settings; by 12 months following the Court's Order, all PMC children under six years of age be placed in family-like settings; by 24 months following the Court's Order, all PMC children under 13 years of age be placed in family-like settings. The Court observed in the December 2015 Opinion that DFPS is second worst in the nation at placing young children in congregate care. We recommend that acceptable family-like settings include, for example, non-relative foster care, tribal foster care, kinship foster care, and therapeutic foster care. We recommend DFPS allow exceptions to placement in a family-like setting for the following: sibling groups of four or more children who cannot otherwise be placed together, children whose individualized needs require inpatient psychiatric hospitalization, treatment and/or medical care, or young children who are placed with their minor parent.</p>	<p>As described</p>	<p>We recommend the Special Masters review and verify PMC children's placements. We recommend exceptions be approved by DFPS supervisory authority, documented by DFPS staff in the child's case record and verified by the Special Masters through case record reviews.</p>
<p>22.3 We recommend to reduce the risk of harm to PMC children that by 24 months following the Court's Order, PMC children ages 13 years of age and older can only be placed in a shelter if a family-like setting is unavailable to meet their needs and the appropriate DFPS staff documents in the child's case record the ongoing efforts made to secure for the child a family-like placement. We recommend DFPS allow exceptions to placement in a family-like setting for the following: sibling groups of four or more children who cannot otherwise be placed together, children whose individualized needs require inpatient psychiatric hospitalization, treatment and/or medical care, or young children who are placed with their minor parent.</p>	<p>We recommend this provision be effective 24 months following the Court's Order.</p>	<p>We recommend the Special Masters review and verify PMC children's placements. We recommend exceptions be approved by DFPS supervisory authority, documented by DFPS staff in the child's case record and verified by the Special Masters through case record reviews.</p>
<p>22.4 We recommend to reduce the risk of harm to PMC children that DFPS not allow unrelated children more than three years apart in age to be placed in the same room in any residential facility unless DFPS after a thorough, documented assessment certifies that such placement is safe and appropriate.</p>	<p>We recommend this provision be effective 6 months following the Court's Order.</p>	<p>We recommend DFPS verify within 9 months of Court's Order and then include ongoing verification in regular inspections.</p>
<p>23. Since the Court concluded "Inadequate Placement Array: (3) DFPS shall track how many placements in its array are designated as single-child homes (including biological and adopted children), and track how many foster children need single-child homes. DFPS shall explain its criteria for determining which children need single-child homes. DFPS shall ensure that all children who need single-child homes are placed in such homes, unless it is in the child's best interest to remain with siblings or be supervised at a congregate care facility. If a child who needs a single-child home is not placed in such a home, the child's primary CVS caseworker must explain why in the child's case files," And...</p>		

Special Master Recommendations to the Court

Implementation Steps/Processes/Tasks	Implementation Dates	Monitoring Methodology
<p>23.1 DFPS does not currently track placements as "single child homes." In light of trial testimony that sexually abused children frequently need a placement with no other children, (the Court summarized, "Defendants' and Plaintiffs' experts agreed that sexually abused children should live in single-child placements."), we recommend that DFPS provide a plan to the Court with specific timeframes documenting how it will track available "single child homes," that is, homes with no other birth, adoptive, relative or non-relative kinship or foster children present, and how it will match those placements to PMC children who upon a thorough and documented assessment are determined to need such a home. We recommend if DFPS places a sexually abused child in setting with other children, the agency must first document in the child's case record why the child has not been placed in a single child home.</p>	<p>We recommend the plan be submitted to the Court within 3 months of the Court's Order.</p>	<p>We recommend the Special Masters develop a monitoring methodology for the plan once reviewed and approved by the Court.</p>
<p>24. Since the Court concluded, "Inadequate Placement Array: (4) DFPS shall conduct a formal statewide needs assessment to determine an adequate placement array, including by number, geographic distribution, and placement type. DFPS must procure a placement array that substantially matches this assessment, and place children appropriately. The Special Master shall recommend how frequently DFPS must complete additional statewide needs assessments. DFPS shall take whatever steps are necessary to ensure that it has available to it at all times an adequate placement array, including by number, geographic distribution, and placement type, and that foster children are placed promptly in an appropriate facility,"</p>		
<p>24.1 We recommend in order to reduce the risk of harm to PMC children that DFPS submit to the Court its 2016 statewide Placement Needs Assessment (the "Assessment") which DFPS expects to produce by January 2017. We recommend the Assessment include the number, geographic distribution and placement types in DFPS' placement array, and the expected placement needs for PMC children in 2017, by catchment areas. We recommend the Assessment integrate the results from DFPS' April 2016 Residential Child Care Capacity Survey which demonstrated substantial interest in expanding placement capacity for children. We recommend DFPS submit to the Court a Placement Plan (also mentioned in Recommendation 13.1 above), informed by the Assessment, to meet the needs identified in the Assessment and expand the array of safe family-based placements for PMC children. We recommend the Placement Plan, whether administered directly or through private agency contracts, be performance and outcomes based, with specific timeframes and benchmarks, and identify strategies to address, among other gaps, the need for placements for specialized and often hard-to-place groups of PMC children such as, for example, sibling groups of four or more, teenagers, children with developmental disabilities and children who require placement in a home with no other children.</p>	<p>We recommend the Needs Assessment be submitted within 2 months of the Court's Order. We recommend the Placement Plan be submitted within 6 months of the Court's Order.</p>	<p>We recommend the provision be satisfied by submission to the Court of the Needs Assessment.</p>
<p>24.2 We recommend, following the Court's review of the 2016 Needs Assessment and the Placement Plan described in Recommendation 13.1 and Recommendation 24.1, that the Special Masters, following consultation with DFPS, propose to the Court performance targets for DFPS over a 12-month period to expand the number of foster homes and therapeutic foster homes for PMC children. We recommend DFPS implement the Placement Plan to expand placements for children, and work toward the 12-month performance targets, upon approval of the Court.</p>	<p>We recommend the proposal be submitted to the Court due within 8 months of the Court's Order.</p>	<p>We recommend DFPS periodically, on a schedule determined by the Court, publicly report on its progress toward achievement of the performance targets.</p>
<p>24.3 We recommend in order to prevent the risk of harm to PMC children that DFPS prohibit the overnight placement of PMC children in offices. We recommend DFPS prohibit the placement of PMC children in any other facilities or locations that are not regulated by DFPS directly or through a CPA as child welfare placements, except kin placements or where necessary to meet the individualized medical or behavioral and mental health needs of PMC children.</p>	<p>We recommend the provision take effect within 3 months of the Court's Order.</p>	<p>We recommend the Special Masters review PMC children's placement data and conduct a case record review.</p>
<p>24.4 We recommend the Special Masters confer with DFPS and propose to the Court in each subsequent year, based on an updated needs assessment, annual performance targets to ensure an adequate supply of foster homes and therapeutic foster homes statewide, which DFPS would work to achieve upon Court approval.</p>	<p>We recommend an annual process.</p>	<p>We recommend the Special Masters review PMC children's placement data and conduct a case record review.</p>
<p>25. Since the Court concluded "Inadequate Placement Array: (5) DFPS shall track how many children are in each residential facility, including biological and adopted children, as well as each facility's licensed capacity. DFPS shall make this information easy to retrieve,"</p>		
<p>25.1 We recommend DFPS publish this information on its website and update the information quarterly until such time as DFPS operationalizes its Placement Portal.</p>	<p>We recommend this provision take effect upon issuance of the Court's Order.</p>	<p>We recommend the Special Masters review the DFPS website.</p>
<p>26. Since the Court concluded, "Inadequate Placement Array: (6) DFPS can continue to pursue Foster Care Redesign, but only if the Special Master recommends, and the Court agrees, that Redesign meets the statewide needs assessment. The Special Master can evaluate Foster Care Redesign," And...</p>		

Special Master Recommendations to the Court

Implementation Steps/Processes/Tasks	Implementation Dates	Monitoring Methodology
<p>27. Since the Court concluded, "Inadequate Placement Array: (7) The Special Master shall recommend provisions to solve the problem of children being removed from placements where they are succeeding because their level of care has altered. The Special Master shall also recommend provisions to solve the perverse incentive of DFPS providing additional funds to caregivers for children at increased levels of care,"</p>		
<p>27.1 Foster Care Redesign has not yet been implemented fully in any region of the State. Its first regional roll-out, as described in the Court's December 2015 Opinion, was not successful, and its subsequent implementation in the first catchment area continues to offer lessons to DFPS leadership on the model's strengths and challenges. We recommend DFPS submit to the Court a Foster Care Redesign plan, taking into consideration the findings of the 2016 Placement Needs Assessment. We recommend the plan include DFPS' analysis of the resources required, main strategies and actions to be taken, key benchmarks, and any known challenges to achieve statewide implementation as DFPS intends. The challenges the plan should address include, among others, the capacity of providers across Texas to serve as the identified SSCC; the service array, including the recruitment and development of foster homes that meet the individualized needs of PMC children; how and on what schedule DFPS will implement a statewide transition to a blended placement funding model as DFPS' preferred way to address the incentives, described in the Court's December 2015 Opinion, associated with greater compensation to providers for increased levels of residential care; and the statewide adoption of a child placement system that will match children's individualized needs to placements and services. We recommend the plan also include proposed timelines for staged, statewide implementation through the end of FY 2021, as proposed by DFPS.</p>	<p>We recommend the plan be submitted to the Court due within 12 months of the Court's Order.</p>	<p>We recommend the Court review and consider the plan.</p>
<p>28. Since the Court concluded "Inadequate Placement Array: (8) The Special Master shall recommend other provisions deemed necessary to ensure that DFPS's placement array no longer causes an unreasonable risk of harm to foster children,"</p>		
<p>28.1. We recommend DFPS report to the Court semi-annually on PMC children's placement moves.</p>	<p>We recommend the first report by DFPS be made within 6 months of the Court's Order.</p>	<p>We recommend the Special Masters following consultation with DFPS develop a methodology to track, verify and report on the placement moves of PMC children.</p>
<p>29. Since the Court concluded "Foster Group Homes: (1) The Special Master shall recommend if FGHs should continue to operate based on whether FGHs can be improved to the extent that they will not cause an unreasonable risk of harm to foster children," And...</p>		
<p>30. Since the Court concluded, "Foster Group Homes: (2) If the Special Master determines that FGHs should continue to operate, the Special Master shall recommend necessary provisions, including awake-night supervision, additional staff training, and more appropriate staff-to-child ratios," we report and recommend:</p>		
<p>30.1 The Court described extensively the harm endured by children in certain foster group homes in the December 2015 Opinion. DFPS reported to the Special Masters that as June 30, 2016, there were 219 foster group homes housing 584 children (TMC and PMC) across Texas. Following the Court's December 2015 Opinion ordering awake-night supervision in these homes, 7 foster group homes had more than 8 DFPS children placed in them as of June 30, 2016, according to DFPS. We recommend to reduce the risk of harm to PMC children that no more than 8 children (cumulative, including foster, birth and adoptive) reside in a foster group home effective 6 months following the Court's Order.</p>	<p>We recommend this provision take effect 6 months following the Court's Order.</p>	<p>We recommend DFPS monitor and certify to the Court. We recommend verification of PMC children's placements by the Special Masters, including case record review, DFPS data and information.</p>
<p>30.2 As of June 30, 2016, DFPS reported to the Special Masters that 219 foster group homes housed 584 children (TMC and PMC), including 345 siblings in 123 sibling groups. Only 26 of these 219 foster group homes housed more than 6 DFPS children (TMC and PMC) though the number of other children in the home (adoptive, birth) is not included. We recommend to reduce the risk of harm to PMC children, effective 9 months from the Court's Order, DFPS only exceed 6 children (cumulative, including foster, birth and adoptive) in a foster group home for the purposes of placing siblings together. This would permit a ceiling of 8 children (cumulative, including foster, birth and adoptive) for the purposes of placing siblings together. Within 18 months of the Court's Order, we recommend DFPS end the use of foster group homes. Since existing foster group homes are eligible for verification consideration by DFPS as either foster homes or group homes, we recommend DFPS require re-verification of foster group homes as group homes or foster homes within 18 months of the Court's Order.</p>	<p>We recommend that within 9 months of the Court's Order, the limitation to sibling placement exception take effect. Within 18 months of Order, we recommend complete conversion of eligible Foster Group Homes to Foster Homes or Group Homes.</p>	<p>We recommend DFPS monitor and certify to the Court. We recommend the Special Masters verify PMC children's placements, including case record reviews, DFPS data and information.</p>
<p>31. Since the Court concluded "Further, the State shall immediately stop placing PMC foster children in unsafe placements, which include foster group homes that lack 24-hour awake-night supervision. Foster group homes that immediately require 24-hour awake-night supervision may continue to operate while the Special Master and the State craft and enforce the Implementation Plan,"</p>		

Special Master Recommendations to the Court

Implementation Steps/Processes/Tasks	Implementation Dates	Monitoring Methodology
<p>31.1 DFPS represented to the Special Masters that many foster group homes have been converted to verified foster homes since the Court's December 2015 Opinion, effectively reducing their maximum capacity to 6 children. As of June 30, 2016, DFPS reported to the Special Masters there were still 219 foster group homes housing 584 children (TMC and PMC), including 345 siblings in 123 sibling groups. Only 26 of these 219 foster group homes housed more than 6 DFPS children (TMC and PMC) though DFPS did not count the number of other children in the home (adoptive, kin, birth). The Court ordered DFPS to ensure 24-hour awake-night supervision in foster group homes to prevent harm to children. The record includes examples of children being harmed in foster group homes including conclusions of child sexual assaults while caregivers were sleeping. Following the Court's December 2015 Order, it is unclear how 24-hour awake-night supervision is now provided in, for example, a single parent foster group home, if any, or a two parent foster group home where one of the parents works outside the home during the day and the other is responsible for child care in the home during the day. In those settings, a central question that begs inquiry is who stays awake all night and when do they sleep? We recommend that DFPS verify and certify semi-annually to the Court that all foster group homes have 24-hour awake-night supervision until such time as there are no more foster group homes.</p>	<p>Effective by Order of the Court, December 2015.</p>	<p>We recommend DFPS verify and certify to the Court by identifying how many caregivers reside in the foster group homes, and which caregivers are responsible for staying awake all night. We recommend verification of PMC children's placements by the Special Masters, including review of case records, DFPS data and information.</p>