



# Sorting Through the Texas Polygamist Custody Case

by Carol Guensburg

[NPR.org](http://NPR.org), May 8, 2008 · In April, Texas authorities investigating a fundamentalist polygamist group after allegations of child abuse removed 464 children from a West Texas compound. The state now has the minors in temporary custody, including a young woman and the son she gave birth to after the raid.

The case, remarkable for its scope, involves a complicated tangle of legal, religious and social issues. The group — called the Fundamentalist Church of Jesus Christ of Latter Day Saints — practices a brand of polygamy taught by the earliest leaders of the Mormon faith but officially abandoned by Mormons in 1890. The case brings into question whether the group's religious practices put children at risk.

## **What's the status of the case and the kids?**

No criminal charges have been brought to date, and the investigation continues. Meanwhile, child-custody hearings are scheduled to begin May 19 in the city of San Angelo. Guy Choate, district director for the State Bar of Texas, said hearings for individual FLDS children grouped by families would begin simultaneously in five courtrooms. Each child has been appointed an attorney; lawyers from across the state offered their services free of charge.

## **What set the case in motion?**

A domestic violence shelter got a call in late March from someone identifying herself as a 16-year-old girl. The caller said she lived at the Yearning for Zion Ranch near the town of Eldorado and had been sexually and physically abused by her 50-year-old "husband." (There are indications now that the call was a hoax.)

The shelter contacted a hotline run by the Texas Department of Family and Protective Services' Child Protective Services, and the investigation began.

On April 3, authorities raided the ranch and began removing the children and young mothers as a protective measure. After a hearing two weeks later, State District Court Judge Barbara Walther ordered that the minor children remain in the department's temporary custody. She mandated DNA testing of each child to determine maternity and paternity.

A detailed chronology of the department's investigation appears on its [Web site](#).

## **What's the core issue?**

It's a custody case involving child sexual abuse, says family law expert John J. Sampson, a professor at the University of Texas School of Law and head of its Children's Rights Clinic.

The FLDS Church reportedly promotes arranged marriages for underage girls to much older men, a practice at odds with state law.

In Texas, youths as young as 16 may legally marry only with parental consent given in the presence of a county clerk, Sampson says. He helped draft the law, which states that intercourse with a minor is a sexual assault if the perpetrator is a legal adult at least three years older.

Of the 53 girls ages 14 through 17 who were taken from the ranch, 31 are pregnant or already have given birth, Texas' CPS has reported. Spokesman Patrick Crimmins says authorities don't know their marital status.

As for polygamy, "in Texas you're only allowed one husband or wife at a time," Sampson says, adding that bigamy or plural marriage rarely is prosecuted.

## **What are the challenges involving identification?**

The state has said family reunification is its goal. But, right now, the state doesn't know who belongs with whom.

Most parental lines have been obscured because the group lacks conventional birth records for youngsters born at its compound, Crimmins says. The state Attorney General's Office collected DNA samples from all the children and some adults, both women and men. The last were taken April 25, an office spokesman said, and results were expected within 30 to 50 days.

Texas has granted any underage mothers the right to stay with their children, saying the mothers are victims of sexual abuse. That measure has created problems of its own: Some of the young women who initially said they were 20 now say they're 17. Lawyers for the FLDS group say the teens are lying now to stay with their children, NPR's Wade Goodwyn has reported.

On April 30, attorneys for 38 FLDS women filed a petition seeking the return of more than 400 children to their mothers, the Deseret News of Salt Lake City reported the next day. Alternately, it "asks the 3rd Court of Appeals to order the men to leave the YFZ Ranch and allow the children to return, or order mothers and their children to live elsewhere," the paper reported. It said the petition suggests a third option: to issue protective orders preventing the men from having any contact with the women and children.

## **Where are the children now?**

Initially, they were housed in a temporary shelter at a coliseum in San Angelo, about 45 miles from the ranch. They've since been dispersed to foster-care group homes to keep sibling and family groups together. Crimmins said 17 adult mothers "have been placed with children at the

request of the judge, and that's something we've never done before." But the group facilities are scattered throughout the state. The polygamist group has complained that the distances interfere with visitation, Goodwyn has reported.

Crimmins said "there isn't an overall plan to move this group of children anywhere. Decisions are made individually."

To minimize the trauma for these youngsters — who reportedly were home-schooled and have had little exposure to the modern world, including no TV or processed foods — the family-services department has encouraged caregivers to review the ["Cultural Awareness Guide for Children from Eldorado"](#) that it has posted.

The FLDS attorney has said the guide contains misleading information from disaffected former members.

### **How is Texas' foster care system coping with such a large number of children?**

Crimmins points out that the state readily found placements. That's on top of the 17,350 other children in paid foster care and another 8,000 to 10,000 in relative or kinship care.

But Rebecca Lightsey, executive director of the social-justice advocacy group Texas Appleseed, is skeptical. "This influx is straining the already overburdened foster care system," she says, adding that the state child welfare system is "struggling with high caseloads, high caseworker turnover." Case workers in Texas carry about 40 cases, though the national average is 25 and the optimal number is 12 to 15, she says. "It's a very stretched system."

For the children who remain in group foster homes, the state pays a basic rate of \$38.59 a day for each child. Each child is assessed for needs, and the rates rise according to the level of care needed, Crimmins says. If and when children are placed in foster care homes, the basic daily reimbursement rate is \$21.44.

*Rural affairs correspondent Howard Berkes contributed to this report.*