



Texas Department of  
**Family and Protective Services**

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# House Human Services Interim Committee Hearing

## Intakes, Investigations, & Removals

**Trevor Woodruff**, Acting Commissioner, DFPS

**Ric Zimmerman**, Associate Commissioner for Statewide Intake

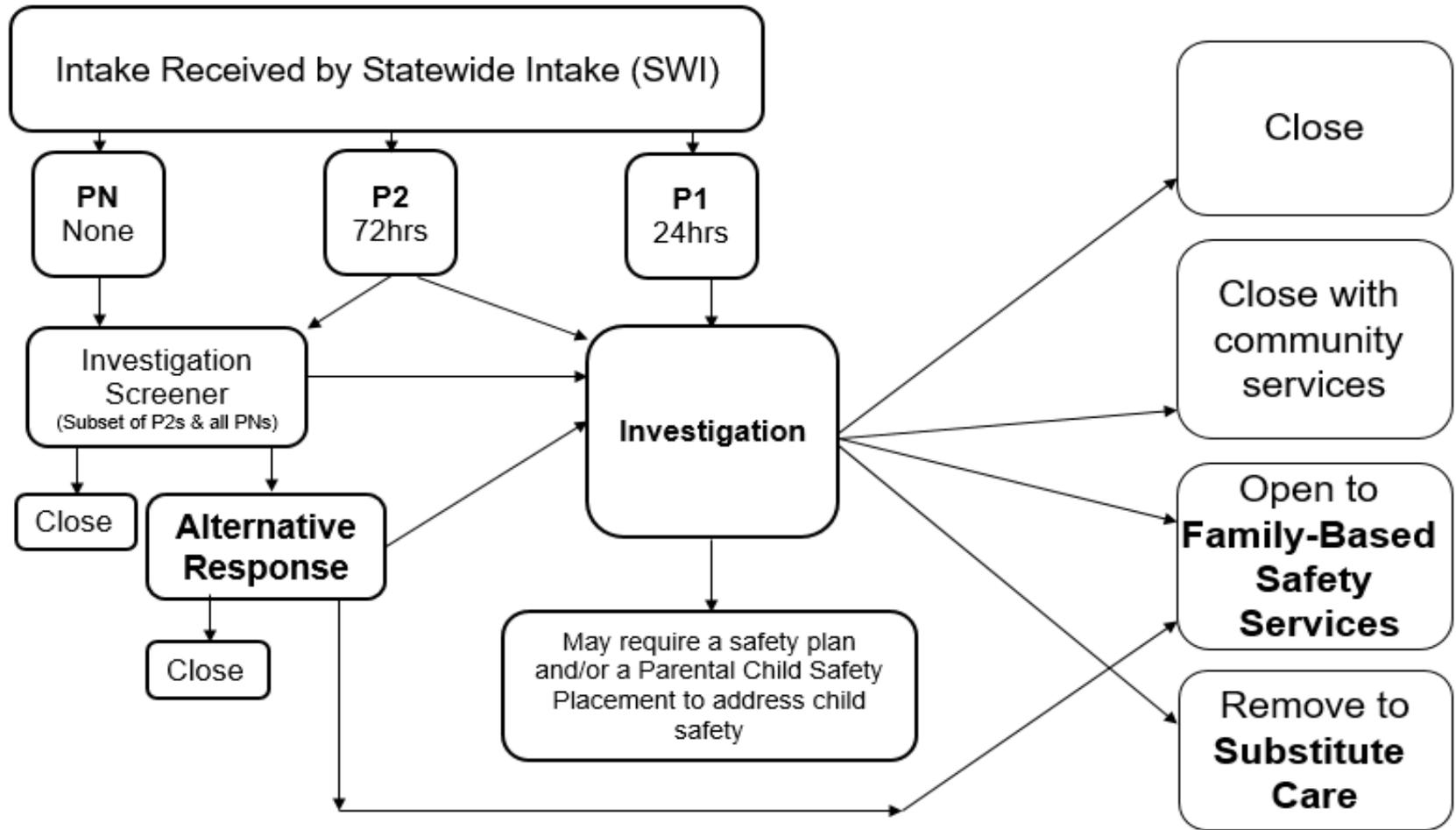
**Audrey Carmical**, DFPS General Counsel

November 12, 2019

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# Intake, Investigation, & Services





# Texas By The Numbers

	FY 15	FY 16	FY 17	FY 18
Child Population Texas	7,311,923	7,407,636	7,500,272	7,583,816
Statewide Intake Contacts Received (total, all programs)	781,935	824,608	822,210	790,250
Statewide Intake Contacts Received (CPS/CPI)	280,831	296,222	301,548	307,439
Intakes Assigned for Investigation (CPS/CPI)	228,112	238,591	238,600	246,074
Child Protective Investigations Completed	176,868	166,753	174,740	171,228
Confirmed Victims of Abuse/Neglect	66,721	58,644	63,657	66,382
Children served in Family-Based Safety Services (in-home)	85,215	90,599	98,730	82,888
Substitute Care Placements (Includes Relative Placements)	46,054	47,408	48,889	50,846
Placements with Relatives	22,506	23,478	25,116	26,516
Family Reunification	5,449	5,650	5,690	6,532
Family Reunification plus Exits to Relatives	13,724	14,139	14,737	15,668
Adoptions Consummated – TOTAL	5,495	5,703	5,413	5,678
Adoptions Consummated – Kin	2,695	2,753	2,720	2,789
Adoptions Consummated - Non-kin	2,800	2,950	2,693	2,889
TOTAL Exits from Care	17,896	18,524	18,851	19,961
TOTAL Removals	17,151	19,079	19,864	20,685
Total Children in State Custody During the FY	47,348	48,795	50,293	52,397

# Receiving Reports of Abuse & Neglect

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- Intake received via phone, internet report, fax, or letter.
- SWI reviews information received and if it contains credible and actionable information that meets the statutory definition of abuse or neglect, the intake is referred to the field for further investigation.
  - Some intakes may receive additional screening in the field (which may include contacts to collaterals) to determine if in-home investigation is necessary.
- Prior to an intake being referred to the field for further investigation, it is assigned as a Priority I, Priority II, or Priority None.

*See slides 5-8 for governing state and federal statutes and agency policies concerning intakes of reports of abuse and neglect.*

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# Receiving Reports of Abuse & Neglect

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## **1000 The Statewide Intake (SWI) Contact Center - [SWI Policy and Procedures](#)**

- The contact center for the Department of Family and Protective Services (DFPS) is maintained by the DFPS Statewide Intake (SWI) program.
- The purpose of the contact center is to assist individuals when reporting:
  - abuse, neglect, and exploitation of persons age 65 or older or adults with disabilities; and
  - abuse and neglect of children.
- SWI is responsible for:
  - obtaining and reviewing the information reported by applying state statutes and DFPS policy;
  - determining the correct DFPS program with jurisdiction to investigate;
  - entering the information in the case management system (IMPACT);
  - ensuring the report is routed to the correct DFPS or HHSC program, as applicable, and field office; and
  - serving as a referral center when information reported is not within DFPS jurisdiction.
- In addition to contacts by telephone, SWI receives contacts through faxes, letters, and internet reports. All information provided in a contact is reviewed, assessed, and entered into IMPACT by intake specialists.

# Receiving Reports of Abuse & Neglect

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## 1100 The Statewide Intake (SWI) Contact Center Legal Basis - [SWI Policy and Procedures](#)

The Department of Family and Protective Services is required by Chapter 261 of the Texas Family Code and Chapter 48 of the Texas Human Resources Code to investigate reports of:

- child abuse or neglect allegedly committed by a person responsible for a child's care, custody, or welfare (Child Protective Investigations);
  - abuse or neglect in child-care operations that are regulated by HHSC (Child Care Licensing);
  - abuse, neglect, or exploitation of a person age 65 or older or an adult with a disability by a caretaker, family member, or individual who has an ongoing relationship with the person (Adult Protective Services In-Home); and
  - Abuse or neglect of children receiving services from certain providers as defined in the Texas Family Code [261.404\(a\)](#).
- Texas Administrative Code, Title 40, Rule 700.479 requires:
    - DFPS must provide for receipt of reports of child abuse or neglect 24 hours a day, seven days a week; and
    - DFPS must assist the public in understanding what to report and which protective interventions are available in response. If a report clearly does not involve child abuse or neglect or risk of abuse or neglect, DFPS may provide information and refer the reporter to other community services to help the child and family.

# Receiving Reports of Abuse & Neglect

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## 1110 Requirement to Report Abuse, Neglect, or Exploitation - [SWI Policy and Procedures November 2019](#)

- According to Texas law, anyone who thinks a child, person 65 years or older, an adult with a substantial impairment, or an individual receiving services from a provider is being abused, neglected, or exploited must report it. For methods of reporting to DFPS, see 1200 Contact Information.
- The requirement to report applies without exception to individuals whose personal communications may otherwise be privileged, including attorneys, clergy, medical professionals, social workers, mental health professionals, and employees of a clinic or health care facility that provides reproductive services.
- The suspected abuse, neglect, or exploitation must be reported immediately. Professionals must report the suspected abuse of a child within 48 hours.

Texas Family Code §[261.101](#)

Human Resources Code §[48.051](#)

40 Texas Administrative Code (TAC), [Chapter 711](#)

# Receiving Reports of Abuse & Neglect

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## 1110 & 1111 SWI Contact Center Legal Requirement to Report Abuse or Neglect of a Child- [SWI Policy and Procedures](#)

### When the Report Must Be Made

- According to the Texas Family Code [§261.101](#), *Persons Required to Report; Time to Report*, a professional who has cause to believe that a child's physical or mental health or welfare has been adversely affected by abuse or neglect by any person must report the suspected abuse within 48 hours.

### What Must Be Reported

- A professional must make a report when there is cause to believe that a child:
  - has been abused or neglected or may be abused or neglected;
  - is a victim of an offense under [§21.11](#), Penal Code; or
  - has been abused as defined by Texas Family Code [§261.001](#) or [§261.401](#).

### Who Must Make the Report

- A *professional* is an individual who is licensed or certified by the state or who is an employee of a facility licensed, certified, or operated by the state and who, in the normal course of official duties or duties for which a license or certification is required, has direct contact with children.
- The requirement to report applies without exception to an individual whose personal communications may otherwise be privileged, including an attorney, a member of the clergy, a medical practitioner, a social worker, a mental health professional, or an employee of a clinic or health care facility that provides reproductive services.

# Screening Reports of Abuse & Neglect

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- When an intake is received in the field from SWI, Priority I intakes are immediately assigned for investigation, due to the serious nature and immediate safety concerns associated with the report.
- Certain Priority II intakes receive further screening by Screeners in Child Protective Investigations prior to assignment\*:
  - Priority II (P2) intakes with victims age 6 and older with no other open case; and
  - All Priority None (PN) intakes.
- Once an intake is assigned for investigation, the caseworker must make every attempt to adhere to statutorily required timeframes for seeing alleged victims face-to-face.
  - Priority I intakes require face-to-face contact within 24 hours.\*\*
  - Priority II intakes require face-to-face contact within 72 hours.\*\*

*See slide 10 for agency policies concerning screening intakes of reports of abuse and neglect.*

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\*As required by *Texas Family Code* §[261.3016](#)

\*\*As required by *Texas Family Code* §[261.301\(d\)](#)

# Screening Reports of Abuse & Neglect

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## **2153.1 Criteria for Formally Screening Reports of Abuse or Neglect (CPI)**

Investigation Screeners and Screener Supervisors are highly skilled, very tenured caseworkers and supervisors who were formerly Investigation Caseworkers, Supervisors, or Program Directors.

Screeners review the less serious, less urgent intakes received from Statewide Intake, which include:

- Priority II (P2) intakes with victims age 6 and older with no other open case; and
- All Priority None (PN) intakes.

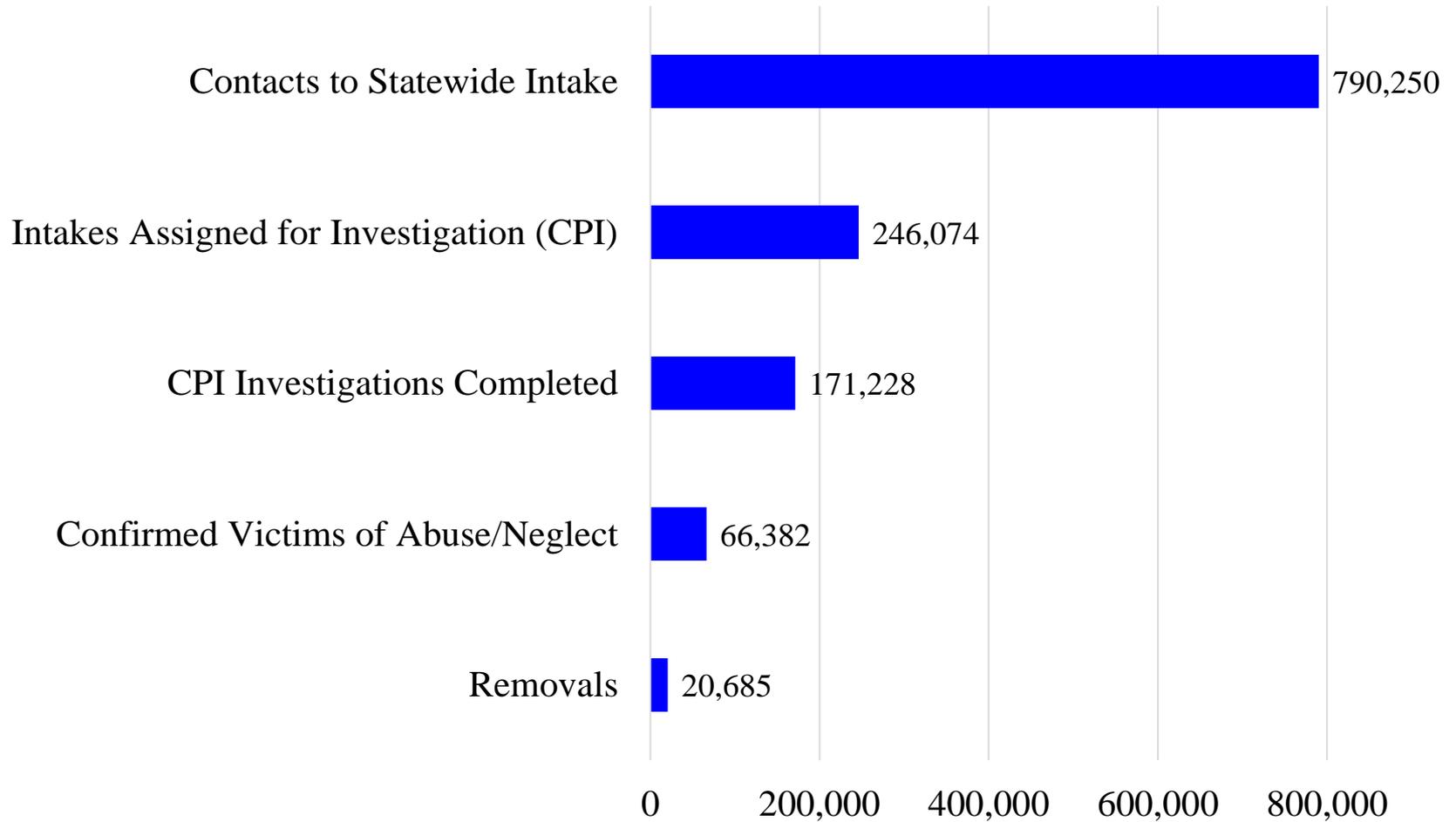
Within 72 hours of date and time of the intake, Screeners make contact with collateral sources other than the reporter to further assess the situation and the need for an investigation. This allows for some intakes to be closed without investigation.

Screeners make a determination with the remaining screened intakes to assign to

- Investigations (an additional 72 hours to make initial contact is provided); or
- Alternative Response.



# FY 18 Reports of Abuse & Neglect



# Investigating Reports of Abuse & Neglect

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- When a caseworker is assigned an investigation, supervisor/worker review any previous history on the family and run criminal checks on individuals in the home age 14 and older who are mentioned as a resident of the home in the intake.
  - Depending on the type of allegations and in order to comply with statutorily required timelines for face-to-face contact, caseworkers will often go directly to school or daycare to assess the child prior to making contact with the parents.
  - The worker will then attempt a home visit with the family. If they are unsuccessful in seeing the parents at home, the worker will leave a business card or reach out through other means (if known).
  - If a caseworker is able to see the family and children and assess their immediate safety and has no concern for the child/children remaining in the home, those children will likely stay in the home during the duration of the investigation.
  - If a caseworker is able to see the family and children but has concerns for immediate child safety, the caseworker will work with the family to develop a plan for ensuring child safety in the immediate future. This may include identifying a safety monitor to come into the home or identifying a Parental Child Safety Placement (PCSP) where the child can stay while the investigation is ongoing.
  - If the caseworker and family are not able to develop a plan that will adequately address immediate safety issues, the worker will immediately discuss the case with Supervisor and program director to determine if a legal removal should be sought.
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# Investigating Reports of Abuse & Neglect

- The Department attempts to engage the parent(s) by seeking other relatives and/or family friends available to help care for the children in many instances and a Family Team Meeting is sought to help engage the family in ensuring child safety.
- Emergency removal may be needed if there is an ongoing safety threat to the child(ren) identified by the Department and there are no options, immediately available, to help ensure the safety of the child(ren). Caseworker and supervisor staff the specific situation with legal representation (often County or District Attorney, sometimes DFPS Regional Attorneys).
  - If legal representation does not feel that the information provided (including current investigation results) warrants a removal, DFPS may seek other intervention (FBSS, court-ordered services).
  - If legal representation advises that the information provided warrants removal (emergency or otherwise), they will take an order before a judge.
  - If a judge agrees that the child is not safe at home, a judge signs the order for emergency removal.
  - If a judge does not agree that the child is not safe at home, DFPS may seek other intervention (non-emergency removal, FBSS, court-ordered services/participation, etc).
- If the caseworker is not able to see the family and children, the caseworker will still contact collaterals and conduct their investigation.

*See slides 14-20 for governing state statutes and agency policies concerning investigations of reports of abuse and neglect.*

## Investigation/Initial Assessment (INV)

The investigation stage includes stage types identical to those in intake, a combination of the primary allegation, plus the priority. The stage type in investigation is determined in intake and is static throughout the investigation stage.

Investigation stage **begins** with the decision to investigate a report.

*Services* include

- assessing the risk to the child;
- immediate provision of protective services to ensure the child's safety during and after the investigation, which may include removal;
- interviews with children, parents, alleged perpetrators, and collateral contacts;
- examinations of the child, including medical, psychological, and psychiatric examinations;
- home visits; and
- completion of appropriate documentation to close the case or to provide continuing services.

*Ends* with

- a disposition for each allegation;
  - assessment of the risk of mistreatment; and
  - the supervisor's decision to provide further protective services or close the case.
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# Investigating Reports of Abuse & Neglect

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Per Texas Family Code § [261.105](#), law enforcement agencies are required to refer suspected abuse and neglect to DFPS, and DFPS must notify law enforcement of all other reports of abuse or neglect.

- (a) All reports received by a local or state law enforcement agency that allege abuse or neglect by a person responsible for a child's care, custody, or welfare shall be referred immediately to the department.
  - (b) The department shall immediately notify the appropriate state or local law enforcement agency of any report it receives, other than a report from a law enforcement agency, that concerns the suspected abuse or neglect of a child or death of a child from abuse or neglect.
  - (c) In addition to notifying a law enforcement agency, if the report relates to a child in a facility operated, licensed, certified, or registered by a state agency, the department shall refer the report to the agency for investigation.
  - (d) If the department initiates an investigation and determines that the abuse or neglect does not involve a person responsible for the child's care, custody, or welfare, the department shall refer the report to a law enforcement agency for further investigation. If the department determines that the abuse or neglect involves an employee of a public or private elementary or secondary school, and that the child is a student at the school, the department shall orally notify the superintendent of the school district, the director of the open-enrollment charter school, or the chief executive officer of the private school in which the employee is employed about the investigation.
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# Investigating Reports of Abuse & Neglect

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Per Texas Family Code § [261.301](#), DFPS is required by law to investigate a report of abuse or neglect.

- (a) With assistance from the appropriate state or local law enforcement agency as provided by this section, the department shall make a prompt and thorough investigation of a report of child abuse or neglect allegedly committed by a person responsible for a child's care, custody, or welfare. The investigation shall be conducted without regard to any pending suit affecting the parent-child relationship.
- (b) A state agency shall investigate a report that alleges abuse, neglect, or exploitation occurred in a facility operated, licensed, certified, or registered by that agency as provided by Subchapter E.
- (c) The department is not required to investigate a report that alleges child abuse, neglect, or exploitation by a person other than a person responsible for a child's care, custody, or welfare. The appropriate state or local law enforcement agency shall investigate that report if the agency determines an investigation should be conducted.
- (e) As necessary to provide for the protection of the child, the department shall determine:
  - (1) the nature, extent, and cause of the abuse or neglect;
  - (2) the identity of the person responsible for the abuse or neglect;
  - (3) the names and conditions of the other children in the home;
  - (4) an evaluation of the parents or persons responsible for the care of the child;
  - (5) the adequacy of the home environment;
  - (6) the relationship of the child to the persons responsible for the care, custody, or welfare of the child; and
  - (7) all other pertinent data.

# Investigating Reports of Abuse & Neglect

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Per Texas Family Code § [261.301](#), DFPS is required by law to investigate a report of abuse or neglect.

- (f) An investigation of a report to the department that alleges that a child has been or may be the victim of conduct that constitutes a criminal offense that poses an immediate risk of physical or sexual abuse of a child that could result in the death of or serious harm to the child shall be conducted jointly by a peace officer, as defined by Article 2.12, Code of Criminal Procedure, from the appropriate local law enforcement agency and the department or the agency responsible for conducting an investigation under Subchapter E.
  - (g) The inability or unwillingness of a local law enforcement agency to conduct a joint investigation under this section does not constitute grounds to prevent or prohibit the department from performing its duties under this subtitle. The department shall document any instance in which a law enforcement agency is unable or unwilling to conduct a joint investigation under this section.
  - (h) The department and the appropriate local law enforcement agency shall conduct an investigation, other than an investigation under Subchapter E, as provided by this section and Article 2.27, Code of Criminal Procedure, if the investigation is of a report that alleges that a child has been or may be the victim of conduct that constitutes a criminal offense that poses an immediate risk of physical or sexual abuse of a child that could result in the death of or serious harm to the child. Immediately on receipt of a report described by this subsection, the department shall notify the appropriate local law enforcement agency of the report.
  - (i) If at any time during an investigation of a report of child abuse or neglect to which the department has assigned the highest priority the department is unable to locate the child who is the subject of the report of abuse or neglect or the child's family, the department shall notify the Department of Public Safety that the location of the child and the child's family is unknown. If the Department of Public Safety locates the child and the child's family, the Department of Public Safety shall notify the department of the location of the child and the child's family.
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# Investigating Reports of Abuse & Neglect

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Texas Family Code § [261.302](#) further dictates the conduct and procedures required in an investigation.

- (a) The investigation may include:
    - (1) a visit to the child's home, unless the alleged abuse or neglect can be confirmed or clearly ruled out without a home visit; and
    - (2) an interview with and examination of the subject child, which may include a medical, psychological, or psychiatric examination.
  - (b) The interview with and examination of the child may:
    - (1) be conducted at any reasonable time and place, including the child's home or the child's school;
    - (2) include the presence of persons the department determines are necessary; and
    - (3) include transporting the child for purposes relating to the interview or investigation.
  - (c) The investigation may include an interview with the child's parents and an interview with and medical, psychological, or psychiatric examination of any child in the home.
  - (d) If, before an investigation is completed, the investigating agency believes that the immediate removal of a child from the child's home is necessary to protect the child from further abuse or neglect, the investigating agency shall file a petition or take other action under Chapter 262 to provide for the temporary care and protection of the child.
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# Investigating Reports of Abuse & Neglect

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Texas Family Code § [261.307](#) details information regarding the investigation that must be provided to parents. This information includes:

- a summary that is brief and easily understood and contains the following information:
  - the department's procedures for conducting an investigation of alleged child abuse or neglect, including a description of the circumstances under which the department would request to remove the child from the home through the judicial system; and an explanation that the law requires the department to refer all reports of alleged child abuse or neglect to a law enforcement agency for a separate determination of whether a criminal violation occurred;
  - the person's right to file a complaint with the department or to request a review of the findings made by the department in the investigation;
  - the person's right to review all records of the investigation unless the review would jeopardize an ongoing criminal investigation or the child's safety;
  - the person's right to seek legal counsel;
  - references to the statutory and regulatory provisions governing child abuse and neglect and how the person may obtain copies of those provisions; and
  - the process the person may use to acquire access to the child if the child is removed from the home;
- if the department determines that removal of the child may be warranted, a proposed child placement resources form that:
  - instructs the parent or other person having legal custody of the child to complete and return the form to the department or agency; identifies in the form at least three individuals who could be relative caregivers or designated caregivers, as those terms are defined by Section 264.751; ask the child in a developmentally appropriate manner to identify any adult, particularly an adult residing in the child's community, who could be a relative caregiver or designated caregiver for the child.

# Investigating Reports of Abuse & Neglect

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Per Texas Family Code § [262.116](#), DFPS has limitations on removals.

- (a) The Department of Family and Protective Services may not take possession of a child under this subchapter based on evidence that the parent:
  - (1) homeschooled the child;
  - (2) is economically disadvantaged;
  - (3) has been charged with a nonviolent misdemeanor offense other than:
    - (A) an offense under Title 5, Penal Code;
    - (B) an offense under Title 6, Penal Code; or
    - (C) an offense that involves family violence, as defined by Section 71.004 of this code;
  - (4) provided or administered low-THC cannabis to a child for whom the low-THC cannabis was prescribed under Chapter 169, Occupations Code; or
  - (5) declined immunization for the child for reasons of conscience, including a religious belief.
- (b) The department shall train child protective services caseworkers regarding the prohibitions on removal provided under Subsection (a).
- (c) The executive commissioner of the Health and Human Services Commission may adopt rules to implement this section.
- (d) This section does not prohibit the department from gathering or offering evidence described by Subsection (a) as part of an action to take possession of a child under this subchapter.

# Dispositions of Investigations

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At the end of the investigation, DFPS makes a ruling on each allegation. This ruling is called a disposition. Dispositions include the following:

**Reason to Believe:** Abuse or neglect occurred based on a preponderance of the evidence. This means when all evidence is weighed, it is more likely than not that abuse or neglect occurred.

**Ruled Out:** Staff determines that it is reasonable to conclude that the abuse or neglect has not occurred based on the information that is available.

**Unable to Complete:** The investigation cannot be concluded. This is usually because the family could not be located to begin the investigation or the family was contacted but later moved and could not be located to complete the investigation or the family refused to cooperate with the investigation. DFPS policy outlines several actions that the investigator must complete to make this disposition.

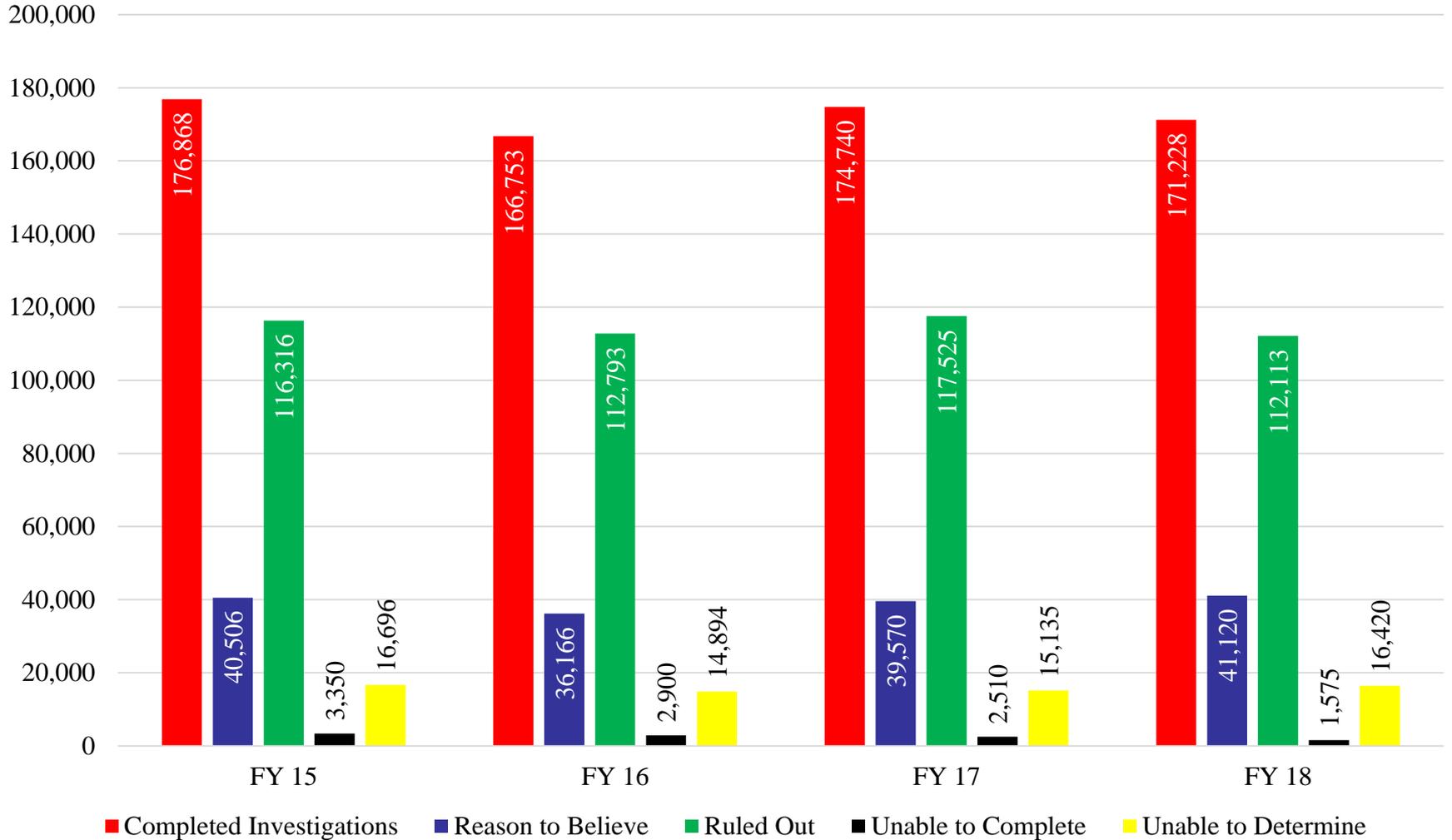
**Unable to Determine:** DFPS concludes that none of the dispositions above is appropriate.

**Administrative Closure:** DFPS intervention is unwarranted based on information that comes to light after the case is assigned for investigation.

The investigator must also decide if there is a reasonable likelihood that a child will be abused or neglected in the foreseeable future. The investigator does this by looking at important ways in which individuals and family behave.



# Dispositions of Investigations



## **5411.1 Standard for Obtaining a Court Order Before Conducting an Emergency Removal:** *Texas Family Code* §[262.101](#) and §[262.102](#)

Before conducting an emergency removal, the caseworker must prepare and submit an affidavit, containing sufficient evidence to satisfy a person of ordinary prudence and caution that:

- there is an immediate danger to the child’s physical health or safety, or the child has been the victim of neglect or sexual abuse or trafficking;
- remaining in the home of the adult the child is being removed from would be contrary to the child’s welfare;
- there is not sufficient time to hold a full adversary hearing, without jeopardizing the child’s physical health or safety; and
- reasonable efforts, consistent with the circumstances and providing for the child’s safety, have been made to prevent or eliminate the need for removal.

## **5412.1 Standard for Conducting an Emergency Removal Before Obtaining a Court Order:** *Texas Family Code §[262.104](#) and §[262.105](#)*

Only in limited circumstances can DFPS remove a child first and *then* go to court to request a court order. DFPS must not remove a child without a prior court order, unless the caseworker demonstrates personal knowledge of **all** of the following:

- There was an immediate danger to the child’s physical health or safety because:
  - the child was a victim of sexual abuse or trafficking under specified Penal Code sections and must be in imminent danger of further sexual abuse or trafficking;
  - the parent or person with possession was using a controlled substance which constituted an immediate danger to the physical health or safety of the child; or
  - the parent or person with possession permitted the child to remain on premises where methamphetamine is manufactured.
- It is contrary to the child’s welfare to remain in the home of the parent or adult the child is being removed from.
- Reasonable efforts, consistent with the circumstances and providing for the child’s safety, were made to prevent or eliminate the need for removal.

## **5413.1 Standard When Conducting a Nonemergency Removal:** *Texas Family Code* §262.113

DFPS must notify the parents or caregiver about the removal hearing unless certain waiver requirements are met. DFPS must submit sufficient evidence, in the form of an affidavit, to prove to the court that:

- there is continuing danger to the child's physical health or safety caused by an act or failure to act of the person entitled to possession;
- it is contrary to the child's welfare to remain in the home; and
- reasonable efforts, consistent with the circumstances and providing for the safety of the child, were made to prevent or eliminate the need for removal.

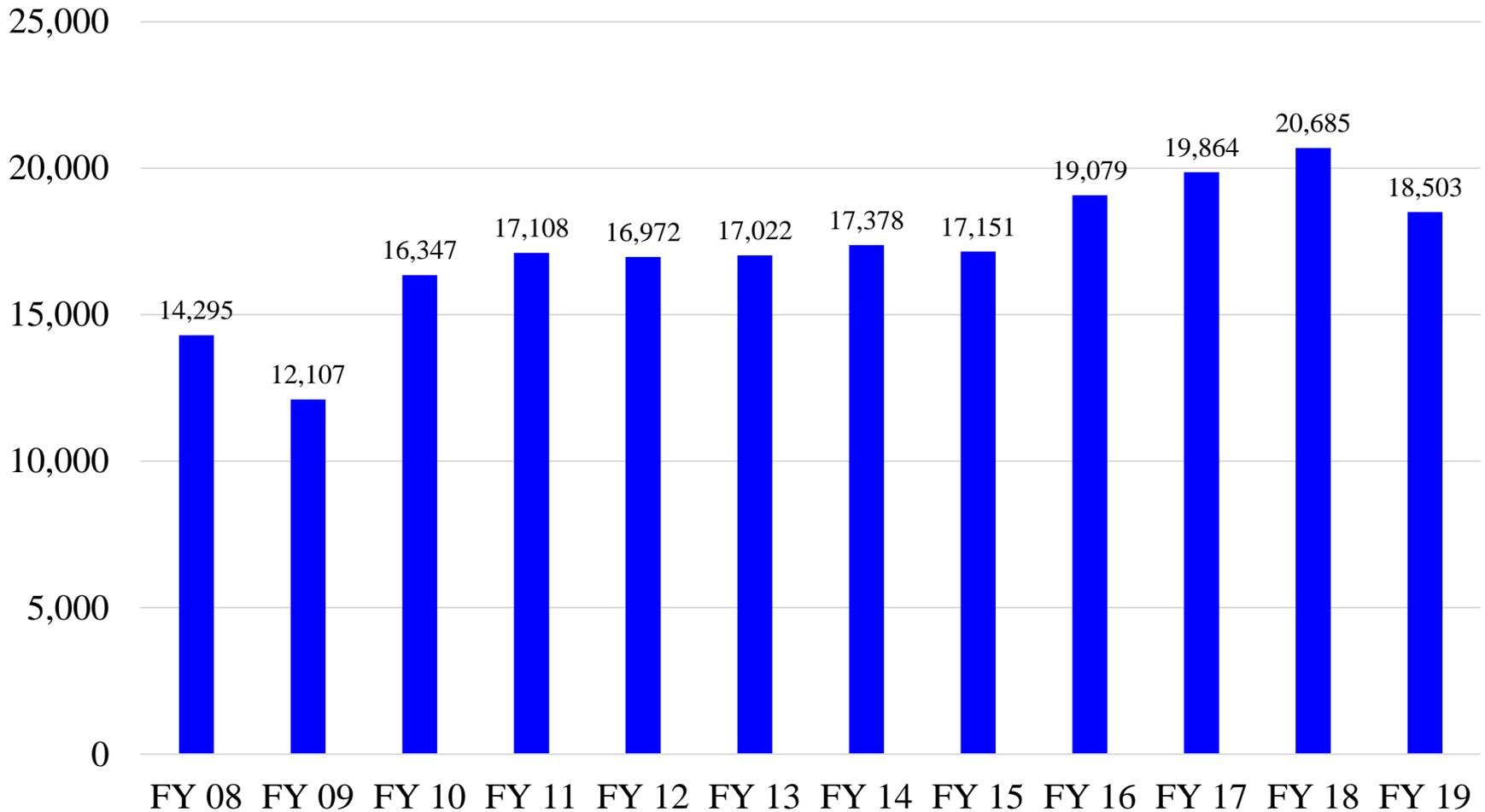
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**Texas Family Code § [262.109](#) details written notice that must be provided to parent when a child is removed. This information must be provided as soon as practicable but not later than the first business day after removal. The notice must include:**

- (1) the reasons why the department or agency is taking possession of the child and the facts that led the department to believe that the child should be taken into custody;
- (2) the name of the person at the department or agency that the parent, conservator, or other custodian may contact for information relating to the child or a legal proceeding relating to the child;
- (3) a summary of legal rights of a parent, conservator, guardian, or other custodian under this chapter and an explanation of the probable legal procedures relating to the child; and
- (4) a statement that the parent, conservator, or other custodian has the right to hire an attorney.



# Removals





# Least Restrictive Intervention During Investigation

Staff identify the **least restrictive** intervention that is reasonably anticipated to **keep the child safe**.

No intervention needed

Child remains in home with Safety Plan

Help from Protective Family

Alleged Perpetrator leaves home

Protective Parent leaves with child

Child out of home

Removal

Most — Restrictive — Least

# Federal Law Concerning Child Abuse & Neglect

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**Federal law requires every state to have a statewide program relating to child abuse and neglect that includes:**

- Procedures for individuals to report known or suspected child abuse or neglect, including mandatory reporting requirements;
- Provisions for immediate screening, risk and safety assessment, and prompt investigation of such reports;
- Triage procedures, including the use of differential response, for the appropriate referral of a child not at risk of imminent harm to a community organization or voluntary preventive service;
- Procedures for immediate steps to be taken to ensure and protect the safety of a victim of child abuse or neglect and of any other child under the same care who may also be in danger of child abuse or neglect and ensuring their placement in a safe environment;
- Provisions for immunity from civil or criminal liability under State and local laws and regulations for individuals making good faith reports of suspected or known instances of child abuse or neglect, or who otherwise provide information or assistance, including medical evaluations or consultations, in connection with a report, investigation, or legal intervention pursuant to a good faith report of child abuse or neglect;
- Provisions regarding confidentiality of records, with exceptions that include child abuse citizen review panels, child fatality review panels, other agencies and the courts, and others;
- Provisions, procedures, and mechanisms for the expedited termination of parental rights in the case of any infant determined to be abandoned under State law and provisions by which individuals who disagree with an official finding of child abuse or neglect can appeal such finding;
- Provisions and procedures to require that a representative of the child protective services agency shall, at the initial time of contact with the individual subject to a child abuse or neglect investigation, advise the individual of the complaints or allegations made against the individual, in a manner that is consistent with laws protecting the rights of the informant; and
- Provisions addressing the training of representatives of the child protective services system regarding the legal duties of the representatives, which may consist of various methods of informing such representatives of such duties, in order to protect the legal rights and safety of children and families from the initial time of contact during investigation through treatment.

CAPTA further requires the state to have in place procedures for responding to the reporting of medical neglect (including instances of withholding of medically indicated treatment from infants with disabilities who have life-threatening conditions), procedures or programs, or both, to provide for:

- coordination and consultation with individuals designated by and within appropriate health-care facilities;
- prompt notification by individuals designated by and within appropriate health-care facilities of cases of suspected medical neglect (including instances of withholding of medically indicated treatment from infants with disabilities who have life-threatening conditions); and
- authority, under State law, for the State child protective services system to pursue any legal remedies, including the authority to initiate legal proceedings in a court of competent jurisdiction, as may be necessary to prevent the withholding of medically indicated treatment from infants with disabilities who have life-threatening conditions;

Title IV-E also has some relevant provisions, such as this requirement for federal foster care funds:

- (2) Removal and foster care placement requirements. The removal and foster care placement of a child meet the requirements of this paragraph if—
- (A) the removal and foster care placement are in accordance with—
    - (i) a voluntary placement agreement entered into by a parent or legal guardian of the child who is the relative referred to in paragraph (1); or
    - (ii) a judicial determination to the effect that continuation in the home from which removed would be contrary to the welfare of the child and that reasonable efforts of the type described in section 671(a)(15) of this title for a child have been made;

# Forensic Assessment Center Network (FACN)

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The Forensic Assessment Center Network (FACN) was a result of Senate Bill 6 (Nelson) of the 79th Regular Legislative Session and was implemented in FY 2006 as a joint project of DFPS and the University of Texas Health Science Center – Houston.

FACN provides consultations for caseworkers in cases of suspected child abuse and neglect and provides expert testimony on child abuse and neglect diagnoses in these cases. FACN physicians also provide ongoing training to DFPS workers about issues surrounding child abuse and neglect. The goal of the network is to make medical professionals with expertise in child abuse and neglect more readily available to advise caseworkers in cases with complicated medical issues.

Currently, DFPS works with the following medical institutions:

- University of Texas Health Science Center - Houston
- UT Southwestern Medical Center – Dallas
- UT Health Science Center – San Antonio
- UT Medical Branch – Galveston
- Texas Tech University Health Sciences Center – Lubbock
- Dell’s Children Medical Center – Austin

The total contract amount for CPI and CPS FACN consultations with six institutions around the state is about \$2.5 million per year. The universities are not paid for each consultation. The total amount of the contract is available for payment regardless of the number of consultations or their findings.

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## **Texas Family Code § 261.3017. CONSULTATION WITH PHYSICIAN NETWORKS AND SYSTEMS REGARDING CERTAIN MEDICAL CONDITIONS.**

- (a) In this section:
- (1) "Network" means the Forensic Assessment Center Network.'
  - (2) "System" means the entities that receive grants under the Texas Medical Child Abuse Resources and Education System (MEDCARES) authorized by Chapter 1001, Health and Safety Code.
- (b) Any agreement between the department and the network or between the Department of State Health Services and the system to provide assistance in connection with abuse and neglect investigations conducted by the department must require the network and the system to have the ability to obtain consultations with physicians, including radiologists, geneticists, and endocrinologists, who specialize in identifying unique health conditions, including:
- (1) rickets;
  - (2) Ehlers-Danlos Syndrome;
  - (3) osteogenesis imperfecta;
  - (4) vitamin D deficiency; and
  - (5) other similar metabolic bone diseases or connective tissue disorders.
- (c) If, during an abuse or neglect investigation or an assessment provided under Subsection (b), the department or a physician in the network determines that a child requires a specialty consultation with a physician, the department or the physician shall refer the child's case to the system for the consultation, if the system has available capacity to take the child's case.
- (d) In providing assessments to the department as provided by Subsection (b), the network and the system must use a blind peer review process to resolve cases where physicians in the network or system disagree in the assessment of the causes of a child's injuries or in the presence of a condition listed under Subsection (b).
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# FACN by the Numbers

In fiscal year 2018, about **2 percent** of all children in a completed investigation received a FACN consultation.

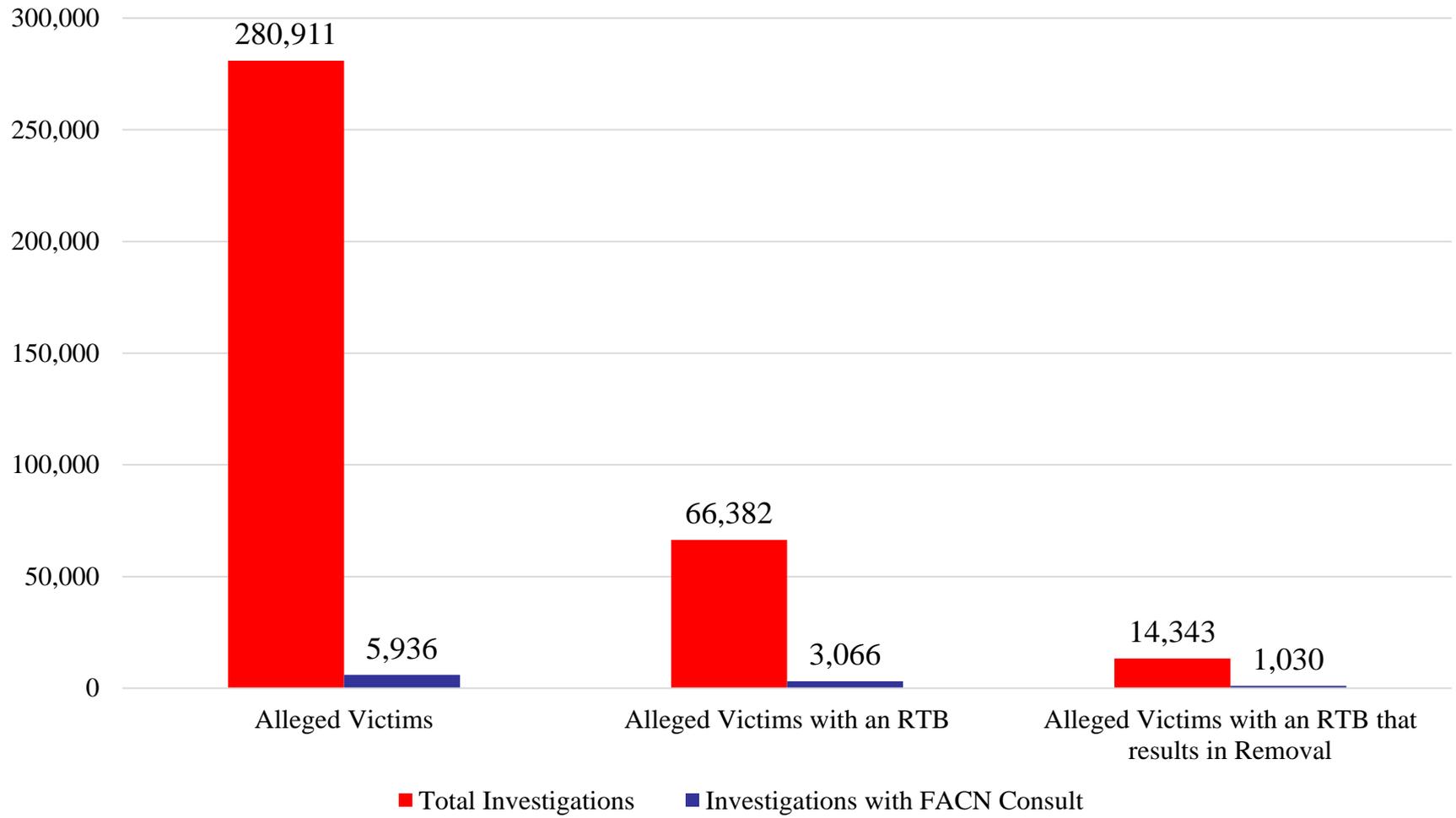
Children that are referred for a FACN consultation tend to be young and have injuries that are more serious.

More than half (53 percent) of all children in completed investigations receiving a FACN consultation in fiscal year 2018 were between the ages of 0-3. This compares to 21 percent of all children between the ages of 0-3 in a completed investigation.

Fiscal Year 2018 (children)	
Alleged Victims	280,911
Alleged Victims with a Reason to Believe Disposition (RTB)	66,382
RTB Rate	24%
Alleged Victims with a RTB that Results in Removal	14,343
Rate of Alleged Victims with an RTB that Results in Removal	22%
FACN Fiscal Year 2018 (children)	
Alleged Victims with FACN consult	5,936
Alleged Victims with a Reason to Believe Disposition (RTB)	3,066
RTB Rate	52%
Alleged Victims with a RTB that Results in Removal	1,030
Rate of Alleged Victims with a RTB that Results in Removal	34%



# FACN by the Numbers



(Investigations with an FACN consult are a subset of total investigations)

## 2137 Making a Referral to the Forensic Assessment Center Network

### Forensic Assessment Center Network

The Forensic Assessment Center Network (FACN) is comprised of physicians who specialize in child abuse and neglect. They provide case consultation, including medical evaluations, expert witness testimony for court proceedings, and training to DFPS.

The following DFPS staff and their managers have access to the FACN:

- Child Protective Investigations (CPI)
- Alternative Response (AR)
- Conservatorship (CVS)
- Family-Based Safety Services (FBSS)

While CPI and AR primarily use the FACN as a resource, all programs have access and can use the FACN under specific circumstances.

## 2137 Making a Referral to the Forensic Assessment Center Network

### When and When Not to Use the FACN

In most instances, staff consult the FACN about an original incident of abuse that was investigated or assessed. For instance, if FBSS staff is working on a case, identifies additional information about the original incident, and needs clarification from the FACN, it would be appropriate for FBSS staff to consult the FACN.

If any staff needs court testimony, staff may consult the FACN to see if the FACN can provide appropriate support.

It is also appropriate to consult the FACN when staff has general ongoing medical questions pertaining to specific cases.

Staff may not use the FACN for direct examinations of children or for medication services to children in DFPS conservatorship.

## 2137 Making a Referral to the Forensic Assessment Center Network

### When to Make a Referral to the FACN

There are many instances in which caseworkers may consult the FACN to obtain the information they need to make appropriate decisions about a case and protect the child.

Caseworkers must consult the FACN in the following circumstances:

- There does not appear to be any reasonable explanation for an injury or the explanation is not consistent with the injury.
- Assistance is needed to determine whether abuse or neglect has occurred.
- There is a difference of opinion between a medical professional and DFPS regarding whether abuse or neglect occurred, or about the seriousness of an injury or condition, and clarification is needed.
- There is evidence of medical child abuse (also known as Munchausen by Proxy syndrome).
- There is bruising on an infant or child who is not mobile.
- The caseworker has a lingering question about abuse or neglect that a medical professional may be able to clarify.

Caseworkers generally do not need to consult the FACN if a child has already been seen by a local physician and:

- There are no lingering questions or concerns.
- The local physician is certified as a child abuse and neglect specialist.

## **2137 Making a Referral to the Forensic Assessment Center Network**

### **When the FACN Indicates Abuse or Neglect**

The FACN physicians' input must be given serious consideration. If the FACN indicates that abuse or neglect occurred, the caseworker must immediately meet with the supervisor and program director to ensure the appropriate safety action is taken to keep the child safe. When there are differing opinions as to whether abuse or neglect occurred, a special investigator must be involved immediately to provide further input and expertise. Staff must discuss the differing opinions with the supervisor, program director, and special investigator.

### **Documenting Results from FACN Consultation**

The caseworker must document in IMPACT all results from the consultation with the FACN physicians. When the caseworker receives information from the FACN related to a child's safety, the caseworker must consider whether there is a need for any safety intervention. The caseworker must keep the supervisor and program director informed.

### **Requesting an Extension While Awaiting FACN Response**

The caseworker must request an extension if unable to submit the investigation to the supervisor for approval within 45 calendar days from intake. The FACN generally responds quickly enough to allow a case to be submitted within the appropriate time frame. If an extension is needed, staff should use the extension code *Medical Records*.