



TEXAS

Health and Human Services

**Texas Department of Family
and Protective Services**

Child Protective Services

**Foster and Adoptive
Home (FAD) Background
Checks**

Resource Guide

Foster or Adoptive Parent Applicants

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Resource Guides

The purpose of Resource Guides is to provide information that helps you do your job better. This information includes reference material, procedures, and guidelines that help you complete the tasks you are required to do by policy.

It's important to remember that the information in Resource Guides **does not substitute for policy**. We may sometimes include policy statements, but only to show you the policy to which the information is related. We will highlight any policy that actually appears in the Resource Guide, and will almost always include a link to the actual policy. For example:

Per [4222.2 Re-Allowing Placement](#):

If the caseworker learns of a detailed justification for changing the status of and considering placements in a foster family that is on Disallowed Placement status, the caseworker must elevate this consideration through the regional chain of command to the regional director.

The policy in the handbook always takes precedence over what is in the Resource Guide. We try to keep policy and Resource Guides synchronized, but sometimes there is a delay. **If you have questions, always follow the policy in the Policy Handbook.**

Resource Guides provide important information on a range of topics, for the purpose of assisting and guiding staff to:

- make essential decisions
- develop strategies to address various issues
- perform essential procedures
- understand important processes
- identify and apply best practices

The information in the Resource Guides is not policy (except where noted), and the actions and approaches described here are not mandates. You should adapt the way you perform critical tasks to the individual needs and circumstances of the children and families with whom you work.

State office and field staff are working together to identify Resource Guide topics, define the content, and develop the appropriate guides. CPS will regularly post Resource Guides as they are developed, and update them as needed. Check the Resource Guides page, in the CPS Handbook, to see new or revised Guides.

We hope these Guides provide useful information to guide and assist CPS staff in effectively performing their job tasks. These Guides, combined with clear and concise policy in the Handbook, should help staff provide a high level of service to children in Texas.

INTRODUCTION

The purpose of this guide is to assist the Child Protective Services' (CPS) Foster and Adoptive Home Development (FAD) staff during an assessment of a potential or active foster or adopt home. It provides guidance on evaluating a person whose background check reveals criminal history or a finding of abuse or neglect. Staff reviews background check results before verifying or approving the home and every time a background check is done after the initial approval. Background checks are required for the applicants, as well as certain household members and visitors of the FAD home. See [7411.1](#) Required Background Check Charts.

See also the [CPS Background Checks: FAD Homes and FBI Exigent Checks](#) page.

TIME FRAMES

TIME FRAMES FOR INITIAL CHECKS

A person's initial background check should be submitted and received according to the following time table:

Persons Requiring a Background Check	When Background Check Is Due
Prospective foster or adoptive parent	Before the foster or adoptive home's verification or approval
Non-client, 14 years or older who resides or will reside in a prospective foster or adoptive home	Before the foster or adoptive home's verification or approval or before the person is residing in the home
Non-client resident who will turn 14	Between 90 days before and 90 days after a non-client resident turns 14 years old
Regular or frequent visitor	At the time FAD becomes aware of the person's visits or plans to visit
Any other person required to have a background check, for whom one has not been submitted	At the time FAD becomes aware of the person's presence

TIME FRAMES FOR CHECKS REQUIRED BEFORE CONSUMMATING AN ADOPTION

Per [7421.4](#) Time Frames for Checks Required Before Consummating an Adoption:
 While Child-Care Licensing rules require recurring checks to be conducted every 24 months, criminal history record checks for adoptive parents must be current within 12 months of a petition for adoption.
Texas Family Code [§162.0085](#), Criminal History Report Required

Example of Time Frame Calculation

Criminal history background checks on adoptive parents were run on 12/15/2010. The prospective parents filed a petition for adoption on 11/2/2011 and the court ordered that they obtain their criminal history records. Because their background checks were run approximately 11 months prior to their adoption petition and the court order to obtain criminal history, the adoptive parents are not required to obtain updated criminal history record checks.

Had the prospective adoptive parents filed their adoption petition after 12/16/2011, and the court had ordered the criminal history, a criminal history record check would have to have been re-run and updated.

ABUSE AND NEGLECT HISTORY CHECKS

For guidance on which persons living or present in a foster or adoptive home require a background check, refer to [7400](#) Checking Criminal Records and Abuse and Neglect History and its subitems.

FAD staff are required to check the Department of Family and Protective Services (DFPS) history of each applicant, certain household members and certain visitors to the home. FAD staff must review each investigation where a person was a principal. The DFPS history may contain investigations related to child protective services, adult protective services and child care licensing. For purposes of this guide, CPS and CCL history is discussed together. APS history is discussed separately later in the guide.

If abuse or neglect history results for an applicant, household member or visitor to the home show that the person has been the subject of an investigation in the past, the FAD worker determines whether the person's involvement in the case:

- bars the person from being present in a verified or approved foster or adoptive home;
- requires that the person undergo a formal risk evaluation; or
- otherwise raises concerns about the applicant's ability to provide a safe and stable home environment for a child in DFPS conservatorship.

To determine whether a person's abuse or neglect history bars the person or requires that a risk evaluation be conducted, the FAD worker reviews DFPS Rules, [40 TAC §745.657](#), and its [associated chart](#). FAD staff should note that the chart refers to the *sustained perpetrator* role. If a DFPS abuse or neglect history check returns a match with the role of *designated perpetrator* but FAD staff wishes to pursue verification or approval of the home despite the finding, the FAD worker follows the steps identified below for requesting due process.

Caution must be taken when allowing individuals with multiple referrals and/or investigations to continue with the verification/approval process or be around children in care. FAD staff must always staff with the FAD program director regarding these persons.

DUE PROCESS

Licensing rules require that, when there is an eligible finding for abuse or neglect, the person must be a sustained perpetrator (*SP*) before a risk evaluation can be requested and approved. See [40 TAC §745.659](#).

A due process hearing is an administrative proceeding to give a designated perpetrator or designated victim/perpetrator an opportunity to appeal an abuse or neglect finding made by DFPS. The State Office of Administrative Hearings (SOAH), an impartial agency, conducts the hearing.

If FAD staff, after determining the person with an abuse or neglect finding does not pose a risk to the health or safety of children, would like to pursue verification despite the eligible reason to believe finding, FAD staff completes [Form 2900](#) Request for CBCU to offer Due Process and emails it to [DFPS FAD CBCU Background Checks](#). The Centralized Background Check Unit (CBCU) contacts the person and offers due process. The person has 30 days to request a hearing.

If a person has a finding before 4/16/1999, CBCU requests a desk review. A CPS resolution specialist determines whether the evidence meets current preponderance of evidence standards. If the finding is overturned, no other action is needed. If CPS "upholds" the finding, CBCU proceeds with offering due process. Findings after 04/16/1999 proceed with a due process offering.

A person can provide a written statement to indicate his/her desire to waive his/her right to a due process hearing. If the finding is sustained because the designated perpetrator (*DP*) "waives" his or her right to a due process hearing or if the person does not respond within the 30 day timeframe, the CBCU staff:

- changes the person's role from *DP* to *SP* (sustained perpetrator) in IMPACT; and

- notifies the FAD worker that the perpetrator's finding has been *Sustained*.

If the findings are overturned, no further action is needed, as the person is no longer listed as a perpetrator in that abuse or neglect investigation.

If the *DP* (or *DP's* parent, if the *DP* is a minor) requests a due process hearing, the entire process and hearing can take 6 or more months to complete. Since the scheduling depends largely on the availability of SOAH hearing officers and multiple parties, the time frame is only an estimate and in some cases may take significantly longer.

If the *DP* is a child and the child's parent fails to request due process, the child *DP* will not be sustained.

FAD staff can direct questions related to due process to the CBCU at *DFPS FAD CBCU Background Checks* FADCBCUBGChecks@dfps.state.tx.us

ACTIVE INVESTIGATION

A person who is an *Alleged Perpetrator* in a DFPS abuse or neglect investigation (CPS, RCCL, APS or CCL) that is open at the time of application may not be verified as a foster parent, or approved as an adoptive parent, or be present in the home until the investigation is complete. When the investigation is completed, the FAD worker and supervisor assess the next steps based on the applicable disposition as discussed further in this guide. See [40 TAC §745.633](#).

REASON TO BELIEVE (RTB) FINDINGS

RTB for Sexual Abuse (SXAB)

RTB for Labor Trafficking

RTB for Sex Trafficking

A person with a *Reason to Believe (RTB)* for SXAB, Labor Trafficking or Sex Trafficking is permanently banned from being a foster/adoptive parent or being around children in care. See [40 TAC §745.657](#).

The FAD worker takes the following actions:

If the person is a(n)...	Then...
Applicant	<ul style="list-style-type: none"> • Contact the applicant to let them know that CPS cannot verify/approve the home; and • Send the applicant a Form 2183 Applicant Closure and Appeal Letter.
Verified/approved foster/adoptive parent	If a foster/adoptive parent is found RTB for SXAB, labor trafficking or sex trafficking, the home must be closed, pending results of an appeal. These situations must be staffed with the supervisor and FAD program director immediately after the RTB finding.
Household member, person seeking to be regular or frequent visitor, or Intermittent Alternate Caregiver	Contact the person and foster/adoptive parents to let them know that CPS cannot allow the person to be around children in care. If the person will not or cannot leave the home, then the home will be closed.

RTB for Physical Abuse (PHAB)

A person with a *Reason to Believe (RTB)* for PHAB is permanently banned from being a foster/adoptive parent or being around children in care unless:

- (1) It has been more than five years since the date of the physical abuse finding; and
- (2) The prospective foster or adoptive parent is related to or has a significant longstanding relationship with the foster or adoptive child.

See [40 TAC §745.657](#).

If it is determined the person meets the above exceptions, the FAD worker, before deciding to request a risk evaluation:

- reviews the investigation(s);
- attempts to talk with the investigator(s);
- talks with the person/family about the investigation(s); and
- staffs the case with the supervisor **and** FAD program director so that a determination can be made of whether the person with the abuse or neglect finding poses a risk to the children's health or safety.

If it is determined that the person does not pose a risk to the health or safety of children, the FAD program can submit a risk evaluation.

CPS takes extreme caution when submitting a risk evaluation for persons with a RTB. In many situations, CPS does not recommend a person with a RTB continue the verification/approval process or be around children in care.

If it is determined that the finding is a ban, the FAD worker takes the following actions:

If the person is a(n)...	Then...
Applicant	<ul style="list-style-type: none"> • Contact the applicant to let them know that CPS cannot verify/approve the home; and • Send the applicant a Form 2183 Applicant Closure and Appeal Letter.
Verified/approved foster/adoptive parents	If a foster/adoptive parent is found RTB for PHAB, the home must be closed, pending results of an appeal. These situations must be staffed with the supervisor and FAD program director immediately after the RTB finding.
Household members, persons seeking to be regular or frequent visitors, or Intermittent Alternate Caregivers	Contact the person and foster/adoptive parents to let them know that CPS cannot allow the person to be around children in care. If the person will not or cannot leave the home, then the home will be closed.

RTB for Other Allegations

Neglectful Supervision (NSUP)

Medical Neglect (MDNG)

Refusal of Parental Responsibility (RAPR)

Emotional Abuse (EMAB)

A person with a RTB disposition of any other type of allegation is eligible to be verified/approved as a foster or adoptive parent or be around children in care, provided a risk evaluation is approved. See [40 TAC §745.657](#).

Before making the decision to request a risk evaluation, the FAD worker:

- reviews the investigation(s);
- attempts to talk with the investigator(s);
- talks with the person/family about the investigation(s); and
- staffs the case with the supervisor **and** FAD program director so that a determination can be made of whether the person with the abuse or neglect finding poses a risk to the health or safety of children.

If it is determined that the person does not pose a risk to the children's health or safety, the FAD program can submit a risk evaluation.

CPS takes extreme caution when submitting a risk evaluation for persons with an RTB. In many situations, CPS does not recommend a person with a RTB continue the verification/approval process or be around children in care.

UNABLE TO DETERMINE (UTD) FINDINGS

A person with a *UTD* disposition (any allegation) is eligible to be approved as a foster or adoptive parent or be around children in care. However, before FAD approves the person to move through the CPS verification/approval process or be around children in care, the FAD worker:

- reviews the investigation(s);
- attempts to talk with the investigator(s);
- talks with the person/family about the investigation(s); and
- staffs the case with the supervisor **and** FAD program director so that a determination can be made of whether the person with the abuse or neglect finding poses a risk to the children's health or safety. A determination can be made of whether the person can continue in the process or be around children in care.

CPS takes caution when making the decision to allow a person with a UTD to continue the verification/approval process or be around children in care, especially when the result of the investigation was CPS providing further services to the family.

RULED OUT (R/O) FINDINGS

Anyone with an *R/O* disposition (any allegation) is eligible to be a foster/adoptive parent or be around children in care. However, before FAD approves the person to move through the CPS verification/approval process or be around children in care, the FAD worker:

- reviews the investigation(s);
- attempts to talk with the investigator(s);
- talks with the person/family about the investigation(s);
- staffs the case with the supervisor so that a determination can be made of whether the person with the abuse or neglect finding poses a risk to the children's health or safety.

If the family has had a recent (past year) investigation or there are multiple R/O cases, the FAD worker must staff the case with the FAD program director.

CPS takes caution when making the decision to allow a person with an R/O to continue the verification/approval process or be around children in care, especially when the result of the investigation was CPS providing further services to the family.

FAMILY MOVED/UNABLE TO LOCATE/UNABLE TO COMPLETE

A person with a *Family Moved*, *Unable to Locate*, or *Unable to Complete* disposition is eligible to be approved as a foster or adoptive parent or be around children in care. However, before FAD approves the person to move through the CPS verification/approval process or be around children in care, the FAD worker:

- reviews the investigation(s)
- attempts to talk with the investigator(s)
- talks with the person/family about the investigation(s)
- staffs the case with the supervisor so that a determination can be made of whether the person with the abuse or neglect finding poses a risk to the health or safety of children; and

If the family has had a recent (past year) investigation or there are multiple R/O cases, the FAD worker must staff the case with the FAD program director.

CPS takes caution when making the decision to allow a person with this disposition to continue the verification/approval process or be around children in care.

ALTERNATIVE RESPONSE (AR)

Open AR Case

A person with an open AR case is not eligible to be approved as a foster or adoptive parent or be around children in care.

However, an exception exists if a prospective family has a longstanding relationship with a child under DFPS conservatorship or the family has already been providing care in their home for a child who is under DFPS conservatorship.

Before FAD approves the person to move through the CPS verification/approval process or be around children in care in the home, the FAD worker:

- reviews the documentation;
- talks with the person about her or his open AR involvement;
- talks with the current AR worker; and
- staffs the case with the supervisor so that a determination can be made of whether the person with the open AR case poses a risk to the health or safety of children.

CPS takes caution when making the decision to allow a person with an open AR case to continue the verification/approval process or be around children in care, as it is possible the AR case could lead to an investigation.

Closed AR Case

A person with a closed AR case is eligible to be approved as a foster or adoptive parent or be around children in care. However, before FAD approves the person to move through the CPS verification/approval process or be around children in care, the FAD worker:

- reviews the documentation;
- talks with the person about his or her prior AR involvement;
- talks to the prior AR worker, if available; and
- staffs the case with the supervisor so that a determination can be made of whether the person poses a risk to the health or safety of children.

ADULT PROTECTIVE SERVICES FINDINGS

FAD staff may discover a person had involvement with Adult Protective Services (APS). APS does not have the same dispositions (*RTB, R/O, etc.*) as CPS. A valid finding of abuse or neglect with APS is not an automatic ban but does warrant further review. APS findings are not subject to risk evaluations.

A person with a closed APS case is eligible to be approved as a foster or adoptive parent or be around children in care. However, before FAD approves the person to move through the CPS verification/approval process or be around children in care, the FAD worker:

- reviews the APS investigation;
- talks with the person about her or his prior APS involvement; and
- staffs the case with the supervisor and the FAD program director so that a determination can be made of whether the person with the abuse or neglect finding poses a risk to the children's health or safety.

Things to Consider When Assessing APS History

- How does the reason for the APS history affect the person's ability to appropriately care for children?
- Are there concerns the person is unable to meet his or her own needs?
- Are there concerns another person is abusive and neglectful towards the potential caregiver?
- Has the potential caregiver or person present around the children been abusive or neglectful towards another adult?

For persons with an open APS case, refer to section *Active Investigations* in this guide.

CRIMINAL HISTORY

See [7400](#) Checking Criminal Records and Abuse and Neglect History and its subitems.

FAD staff are required to check the criminal history of each applicant, certain household members and certain visitors to the home. For guidance related to which persons living or present in a foster or adoptive home requires a background check, refer to [7411.1](#) Required Background Check Charts.

FAD staff must review each arrest and conviction. If results reveal an arrest and/or convictions for an applicant, household member or visitor to the home, FAD staff must review the [Criminal History Convictions and Requirements Charts](#) to determine whether the person's history:

- bars the person from being present in a verified or approved foster or adoptive home;
- requires that the person undergo a formal risk evaluation; or
- otherwise raises concerns about the applicant's ability to provide a safe and stable home environment for a child in DFPS conservatorship.

See [40 TAC §745.651](#).

REVIEW RESULTS FOR OUTCOMES OF CRIMINAL INVOLVEMENT

If the rap sheet doesn't show a disposition and/or level of offense (i.e., misdemeanor or felony), staff must obtain documentation of the outcome of criminal involvement for the FAD record.

Note: If the rap sheet documents convictions for banned offenses, there is no need to obtain documentation of other arrests/convictions. Follow instructions in the "Banned Convictions" section of this document.

Why do we need documentation? CPS FAD must confirm the results of all criminal involvement. For example, sometimes a person is arrested for one offense and convicted for another (or additional) offense, and at other times, a person is arrested but the charges are dropped.

Where to get documentation:

Type of Documentation Needed	Source
Convictions and Dismissals	District or County Clerk of the county of conviction
Other criminal involvement that did not result in a conviction	<ul style="list-style-type: none"> • District or County Attorney • Local law enforcement authority
Probation/parole records	Probation/parole office

NOTE: Sometimes documentation is destroyed as part of normal business or disaster (fire, hurricane, etc.) and the results are unknown to the local entity. If the documentation is destroyed and results are unknown by the local entity, the FAD program needs to obtain a letter from the local entity stating why the record is unavailable.

If the family self-reports history that is not found on any criminal history checks, the FAD staff must treat it as if it was a conviction and attempt to locate arrest records and court documents.

Computer-based training is available to FAD staff through the DFPS Learning Station. The [Orientation to Criminal Records](#) was developed to help staff better understand how to interpret the criminal records that they must review.

DETERMINE WHETHER THE PERSON CAN BE AROUND CHILDREN IN CARE

If a person was required to undergo name-based or fingerprint-based checks and criminal history results show a record of arrests or convictions, the FAD worker determines whether the person has been convicted of a crime that either:

- temporarily or permanently bars the person from being present in a verified or approved foster or adoptive home;
- requires the person to undergo a formal risk evaluation; or
- otherwise raises concerns about the applicant’s ability to provide a safe and stable home environment for a child in DFPS conservatorship.

1. BANNED CONVICTIONS

DFPS will not approve a prospective foster or adoptive parent’s application if anyone residing or present in the home (and therefore subject to background check requirements) has a conviction that is a permanent bar under state or federal law.

Permanent bars not only prohibit an applicant from becoming a foster or adoptive parent, they also prohibit the person from being present in a foster or adoptive home while children are in care. Persons with permanent bars are not eligible for risk evaluations.

While a person with a temporary bar may be considered at a later date, the FAD worker may not legally proceed until the temporary bar has elapsed.

See [Criminal History Convictions and Requirements Charts](#).

The FAD worker takes the following actions:

If the person is a(n)...	Then...
an applicant	<ul style="list-style-type: none"> • Contact the applicant to let them know that CPS cannot verify/approve the home; and • Send the applicant a Form 2183 Applicant Closure and Appeal Letter.
verified/approved foster/adoptive parents	If a foster/adoptive parent is convicted of a banned offense, the home must be closed. These situations must be staffed with the supervisor and FAD program director immediately.
household members, persons seeking to be regular or frequent visitors, or Intermittent Alternate Caregivers	Contact the person and foster/adoptive parents to let them know that CPS cannot allow them to be around children in care. If the person will not or cannot leave the home, then the home will be closed.

2. PRIOR ARREST(S) BUT NO CONVICTION(S)

If the person has a prior arrested, but was not convicted, the person is eligible to continue with the verification/approval process and can be around children in care. However, before CPS approves the person to move through the CPS verification/approval process or be around children in care, the FAD worker:

- talks with the person/family about the arrest(s);
- determines if the arrest raises concerns about the applicant’s ability to provide a safe and stable home environment for a child in DFPS conservatorship;
- staffs the case with the supervisor so that a determination can be made of whether the person with the arrest poses a risk to the children’s health or safety; and
- staffs with the FAD program director if the person has multiple arrests.

3. CONVICTIONS THAT DO NOT REQUIRE A RISK EVALUATION

If the person has been convicted of an offense that is not banned or does not require a risk evaluation (see [Criminal History Convictions and Requirements Charts](#)), the person is eligible to continue with the verification/approval process and can be around children in care. However, before CPS approves the person to move through the CPS verification/approval process or be around children in care, the FAD worker:

- reviews conviction and/or probation/parole documents;
- talks with the person/family about the criminal history;
- determines if the conviction raises concerns about the applicant's ability to provide a safe and stable home environment for a child in DFPS conservatorship;
- staffs the case with the supervisor and the FAD program director so that a determination can be made of whether the person with the abuse or neglect finding poses a risk to the health or safety of children; and
- staffs with the FAD program director if the person has with multiple convictions.

CPS takes caution when making the decision to allow a person with criminal convictions to continue the verification/approval process or be around children in care. CPS takes extreme caution when the person has multiple criminal convictions.

4. CONVICTIONS THAT REQUIRE A RISK EVALUATION

If the conviction requires a risk evaluation, the FAD worker completes the following steps *before* completing [Form 2974c](#) Request for Risk Evaluation:

- reviews the conviction and/or probation/parole documents;
- talks with the person/family about the criminal history;
- determines if the conviction raises concerns about the applicant's ability to provide a safe and stable home environment for a child in DFPS conservatorship or does the person with the conviction's presence in the home cause concern;
- staffs the case with the supervisor **and** FAD program director so that a determination can be made of whether the person with the conviction poses a risk to the health or safety of children; and
- if it is determined that the person does not pose a risk to the health or safety of children, the FAD program can submit a risk evaluation.

CPS takes extreme caution when making the decision to submit a risk evaluation, especially when there are multiple convictions or arrests.

SERVICE CALL HISTORY

See [7431](#) Service Call Information From Law Enforcement.

CPS FAD policy requires the FAD worker to obtain service call information from the appropriate law enforcement agency for the prospective foster and adoptive parent's addresses for the past two years. The service call background check will reveal if law enforcement has been to the home and for what reasons. The reasons law enforcement has visited the home as well as the number of calls to the home will be significant to FAD's evaluation and assessment of the prospective home's safety. For example, one incident for a noise disturbance may not be of concern but multiple incidents of noise disturbances could be of concern and warrant a full evaluation.

If the law enforcement service call check reveals any call to the home within the past two years, the FAD worker must discuss each incident and any additional background information with the applicants. The FAD worker may need to speak to references and other household members to gain additional information related to the service calls.

If the FAD staff obtains information from the service call check that reveals service calls related to domestic violence, FAD staff must report this information to RCCL regardless of whether staff verifies the home. See [40 TAC §749.2445](#).

JUVENILE CRIMINAL HISTORY

DFPS is one of the few agencies that has access to juvenile records when completing DPS checks.

If the person has been convicted of an offense through the juvenile court, the person is eligible to continue with the verification/approval process and can be around children in care. However, before CPS approves the applicant to move through the CPS verification/approval process or for the person to be around children in care, the FAD worker:

- reviews the conviction and/or probation/parole documents;
- talks with the person about the juvenile criminal history;
- if the person with the juvenile criminal history is a child in the home, talks to the parents about the history;
- determines if the conviction raises concerns about the applicant's ability to provide a safe and stable home environment for a child in DFPS conservatorship or does the person with the conviction's presence in the home cause concern;
- staffs the case with the supervisor so that a determination can be made of whether the person should continue with the verification/approval process or if the person should be allowed to be around children in care. The FAD worker should staff with the FAD program director if history shows more serious convictions such as assault or repeated drug/alcohol offenses.

CONSIDERING THE TOTALITY OF THE CIRCUMSTANCES

Risk evaluations are not required for criminal convictions outside of those listed on the [Criminal History Convictions and Requirements Charts](#). Nor is there a specific evaluation process for service call information obtained from law enforcement. However, an applicant's or household member's criminal history and service call information must be addressed in the home screening. This includes the circumstances surrounding the conviction, the resolution of the conviction, and an assessment of the child's safety in relation to the conviction, history, or service call information.

LEGAL CONSULTATION

Through the evaluation, assessment, and supervision of families, FAD staff often look at criminal and abuse and neglect history checks of prospective and current foster and adoptive parents. This information may come from Texas or another state.

Other states' definitions of criminal convictions and child abuse and neglect can differ from Texas. States' definitions also change over time to keep up with new laws and changes in society.

If FAD staff need assistance with evaluating or assessing criminal or abuse and neglect history, FAD staff should contact the Administrative Hearings Unit for consultations for in-state and out-of-state criminal history and for out-of-state abuse/neglect history to the. The Administrative Hearings Unit can be contacted in Outlook via the *DFPS Licensing Legal Services Mailbox*. To ensure prompt response, FAD staff should indicate in the email's subject line that it is a request for a FAD consultation.

The FAD worker provides the following information with the consultation request:

- the identity of the individual in question;
- the state providing the history;
- any available circumstances surrounding the history; and

- any available documentation (court documents, police reports, and so forth) that provide additional details regarding the history.

An attorney from the Administrative Hearings Unit will be assigned to consult with FAD regional staff on how to proceed with criminal convictions that do not appear on the criminal conviction chart, criminal convictions that do not fall within clearly defined rules, and out-of-state abuse and neglect history.

The consulting attorney's primary responsibility is to provide guidance on how to evaluate and assess criminal history and/or out-of-state abuse/neglect history that is not otherwise addressed in rule, policy, or practice. FAD staff should ensure that the history in question is not otherwise addressed in rule or policy before requesting a consultation from the Administrative Hearings Unit.

RISK EVALUATIONS

Some convictions or abuse/neglect findings do not permanently bar an individual from becoming a foster or adoptive parent, or from being present in a foster home while children are in care. However, persons with these convictions or sustained findings may only be present in a foster or adoptive home while children are in care after a risk evaluation is requested and approved.

Before requesting a risk evaluation, the FAD worker and supervisor assess whether the applicant is eligible to continue with the verification or approval process. To make this assessment, the worker and supervisor consider not only whether a risk evaluation is permitted but also whether it is appropriate to proceed, considering the person's history.

NOTE: The fact that a person with extensive history may be eligible for a risk evaluation does not mean that FAD must proceed with the risk evaluation. As the child-placing agency responsible for verifying or approving the home, FAD must also conclude that the person does not pose a risk to the health or safety of children.

All of the following conditions must exist before the FAD program submits a request for a risk evaluation. See [40 TAC §745.681](#).

1. The FAD program makes the assessment that the person has made changes in his or her life showing that she or he has been rehabilitated;
2. The FAD program makes the assessment that the person is not a risk to children's health or safety;
3. The FAD program wants to verify/approve the home or approve the person to be around children in care; AND
4. The individual's history has been staffed with the FAD program director and the PA supports submitting the risk evaluation.

RISK EVALUATION PROCESS

FAD staff complete all requests for risk evaluations using [Form 2974c](#) CPS Request for Risk Evaluation Based on Past Criminal History or Central Registry Findings for Foster/Adoptive Homes.

See [40 TAC §745.687](#).

The form, along with all supporting documents identified on the form, should be submitted electronically to the Centralized Background Check Unit (CBCU) at: [DFPS FAD CBCU Background Checks](#).

FREQUENTLY ASKED QUESTIONS

Does FAD have to request a risk evaluation if the FAD program does not think the person should be verified/approved or be around children in care?

NO. The FAD program should NOT request a risk evaluation if the program does not think the person should be verified/approved or be around children in care. FAD should only request risk evaluations if the FAD program believes the person is not a risk to children and should be verified/approved or be around children in care.

What does the FAD program do if a family had a risk evaluation approved or denied when they were with another agency?

The FAD program must make its own assessment of whether the person is a risk to children and has been rehabilitated and make its own decision of whether the FAD program should submit a risk evaluation on the individual.

What if the family had a risk evaluation approved before, later closed their home with CPS, and now wants to be verified/approved by the FAD program again?

The FAD program must make a new assessment of the individual and submit another risk evaluation, if the program makes the determination that a risk evaluation should be submitted. See [40 TAC §745.697](#).

NEW RESULTS FOR PERSONS PRESENT IN A VERIFIED OR APPROVED HOME

If a home has already been verified or approved and the FAD worker receives new information about a new arrest, conviction or an abuse or neglect investigation, the FAD worker consults with the FAD Program Administrator (PA) or designee and takes the following actions, as applicable.

Arrested or Charged With a Crime

If the person is arrested or charged with a crime, the FAD worker reports the information to CCL. See [§745.699](#). If the offense for which the person is arrested or charged would be a bar to being present, either permanently or temporarily pending the outcome of a risk evaluation, the person cannot be present where children are in care unless the charge has been dismissed, the prosecutor rejects the charge, the person has been acquitted, etc. or upon completion of a risk evaluation permitting the person to be present. See [§745.701](#).

Previously Unknown Criminal Conviction or Abuse/Neglect Finding

If the FAD worker becomes aware of a criminal conviction or finding of abuse or neglect that was not previously considered, the FAD worker reports the information to CCL. The person with the finding may be barred from being present in the operation or CCL may place conditions on the person's presence. See [§745.703](#).

Person Becomes Subject of Abuse/Neglect Investigation

If a person in the home, who is required to undergo background checks, becomes the subject of an abuse or neglect investigation, the FAD worker notifies CCL immediately. The person may remain present unless CCL determines that the person poses an immediate threat or danger to the health or safety of children. See [§745.705](#).

CCL through the head of the Centralized Background Check Unit or designee, makes the ultimate decision about the person's presence or conditions on the person's presence. See [§745.707](#).