Forensic Assessment Center Network Report

As Required by the

87th Texas Legislature, Senate Bill 1578

September 1, 2022

Executive Summary

The 87th Texas Legislature charged the Department of Family and Protective Services (DFPS) and the Supreme Court of Texas Permanent Judicial Commission for Children, Youth and Families (Children's Commission) with the tasks of evaluating the use of the Forensic Assessment Center Network (FACN) and developing recommendations for further improvement. To ensure a full evaluation, DFPS and the Children's Commission invited parents who had experience with the FACN, along with child and family advocates, Child Abuse Pediatricians, other pediatric specialists, judges, and attorneys who represent parents, children, or DFPS to share their experiences.

DFPS relies on the FACN to provide evaluations by medical specialists of children who may have experienced abuse or neglect. Given the significant impact that DFPS involvement can have on a family, this report recognizes the need to have additional guidance and transparency for all those who may be involved with the FACN.

After holding a Listening Session and Round Table meeting, DFPS and the Children's Commission developed a list of joint recommendations. Although the FACN is a valuable resource to DFPS, DFPS and the Children's Commission identified areas where the FACN contract can be improved and expanded; where resources can be developed; where training can be provided; where data and information sharing can be improved; and where global system improvements can be made.

Contract: The Listening Session and Round Table identified the need to require standardized and detailed information in the FACN report that supports the determination.

Resources: The Listening Session and Round Table identified the need for additional support to families, child welfare professionals, and medical specialists in cases involving the use of the FACN in the following ways:

- Create a DFPS specialist position at the state or regional level focused on complex medical cases.[1]
- Explore the creation of a uniform protocol for DFPS investigations involving allegations of child abuse or neglect in complex medical cases.
- Clarify the roles of the DFPS Child Protective Investigator and the FACN specialists.
- Create and utilize a medical resource form for parents to complete that includes clarifying medical information for DFPS during an investigation.
- Explore a blind review process of FACN determinations from an outside medical team.
- Improve communication between parents, DFPS, and all medical professionals.
- Clearly articulate to parents what their rights are during a DFPS investigation when the FACN is involved.
- Provide clear guidance about the administrative review process and expungement of records.

Training: The Listening Session and Round Table identified areas where additional training would be beneficial to aid in the transparency and accuracy of a DFPS investigation when the FACN is involved. The following audiences would benefit from additional training on these topics:

- DFPS staff
    - Provide clear guidance for DFPS investigations in complex medical cases.
    - Consider second opinions in complex medical cases and obtain second opinions as appropriate.

  - Interview the child's regular treating physicians and any specialists who provided care for the child prior to the investigation.
  - Present clear and thorough documentation and evidence to the court, including information on second opinions and relevant medical testing.

- Attorneys
  - Support training for attorneys who represent DFPS on complex medical cases.
  - Identify training opportunities about complex medical cases for attorneys who represent children and parents.

- Judges
  - Provide training on handling complex medical cases to judges who oversee child welfare cases.

- All Child Welfare Professionals
  - Expand training on conditions that mimic child abuse and ways to utilize FACN specialists.
  - Provide additional training and clarification on the FACN term of "non-specific" findings.
  - Provide statewide trainings on complex medical cases in instances of second and conflicting opinions.
  - Develop trainings on changes to the FACN and DFPS policy and practice resulting from SB 1578 (87th Leg. Session).

Data and Information Sharing*:* Listening Session and Round Table identified that data collection and information sharing are each critical components to the child welfare system. The following recommendations were developed to support better outcomes for children and families:

- Establish uniform data collection and analysis practices, including collecting information by FACN case type.
- Support case management continuity and coordinated transfers of cases including increasing communication between the FACN Specialists, DFPS, and families.

System Improvement: The Listening Session and Round Table identified related recommendations that would strengthen the child welfare community; the following broader concerns about the child welfare system should be considered:

- Expand availability of mandated reporter training.
- During Family Team Meetings with DFPS, ensure that a decisionmaker is present so families can leave with a plan.
- Provide a climate where children and families are served in a trauma-informed manner.
- Encourage jurisdictions to establish pre-petition legal representation programs.
- Explore state, regional or local programs that offer support through parent advocates, mentors, or other support programs for parents going through the child welfare process.
- Identify opportunities to increase parental access to experts.

These recommendations aim to better align policy with practice and ensure transparency and accountability for complex medical cases involving DFPS investigations.

Background

Charge

In 2021, the 87th Texas Legislature passed Senate Bill (SB) 1578, which amended the Texas Family Code regarding the use of Forensic Assessment Center Network (FACN) consultations by Department of Family and Protective Services (DFPS) in making determinations relating to the abuse or neglect of a child.[2] Additionally, SB 1578 tasked DFPS, with the assistance of the Children's Commission, to evaluate DFPS' use of the network and develop recommendations for further improvement.[3] Through a Listening Session with parents and a Round Table with stakeholders representing multiple perspectives and jurisdictions throughout Texas, the Children's Commission and DFPS aimed to document current gaps and identify areas to strengthen communication and transparency for families as well as to support safety, permanency, and well-being for children.

In this report, the term "complex medical cases" refers to cases that mimic child abuse or neglect which include, but are not limited to, physical abuse or medical neglect by the parent (formally referred to Munchausen's syndrome by proxy). The term is used throughout the report in direct reference to DFPS investigations with referrals to the Forensic Assessment Center Network.

History of FACN

In 2005, the 79th Texas Legislature passed SB 6 which created the FACN as a joint effort between DFPS and the University of Texas Health Science Center (UTHSC) – Houston.[4] Prior to the creation of the FACN, DFPS did not have regular access to physicians trained in pediatrics, trauma, or forensics, particularly in rural areas. The Texas Health and Human Services Commission (HHSC), DFPS, health care professionals, and child welfare professionals collaborated to design the FACN as a comprehensive, cost-effective medical services delivery model which would better allow the needs of children served by DFPS to be met.[5] On September 1, 2005, FACN was approved for appropriation.[6]

Consistent with SB 6, the current contract between DFPS and UTHSC-Houston is in effect from September 1, 2019 to August 31, 2024 and it outlines the use of the FACN.[7] The purpose of the contract is to support DFPS, through access to medical professionals, in making decisions relating to the presence or absence of child abuse or neglect.[8] The goals of the contract are to provide statewide access to forensic medical consultation services to DFPS staff, expert testimony regarding child abuse or neglect diagnoses in DFPS cases, and ongoing statewide training on the medical aspects of abuse and neglect to DFPS staff and others identified by DFPS.[9]

The current contract requires UTHSC-Houston to:

- Provide case consultations and written assessments in response to referrals by DFPS;
- Provide expert testimony regarding the assessments as requested by DFPS;
- Develop and deliver training to DFPS staff;
- Maintain a peer review process for physicians;
- Submit monthly reports; and
- Provide ongoing operations, maintenance, and performance improvement of the FACN web-based system.[10]

The specialists utilized by the FACN are healthcare providers who are independently licensed to diagnose and treat medical conditions in the state of Texas (e.g., nurse practitioner, physician, or physician's assistant). Additionally, FACN specialists are certified in pediatrics by a nationally recognized board; have received additional training in child abuse and neglect, beyond general pediatric training; regularly evaluate children for alleged abuse or neglect as part of a routine pediatric practice; and are either board-certified in child abuse pediatrics by the American Board of Pediatrics, or are supervised by a certified Child Abuse Pediatrician (CAP).[11] At a minimum, supervision constitutes shared participation or timely review of all cases involving serious bodily injury and/or hospitalization.[12]

To become certified in child abuse pediatrics, the American Board of Pediatrics requires validly licensed physicians to complete three years of full-time fellowship training in an accredited program or part-time training over no more than six years.[13] The physician must satisfy a scholarly activity requirement during their fellowship and pass the subspecialty certifying examination.[14] As of March 2021, twenty-two CAPs were certified by the American Board of Pediatrics in Texas, the equivalent of 0.3 subspecialists per 100,000 Texas children.[15] As explained below, not all CAPs are part of the FACN.

To ensure the FACN covers the entire state, UTHSC-Houston subcontracted with five medical facilities across Texas, including UTHSC-San Antonio, UT-Southwestern, UT-Medical Branch, Texas Tech University, and UT-Austin Dell Medical School. UTHSC-Houston obtained prior written consent from DFPS before procuring and subcontracting to these entities.[16] Subcontractors must accept and abide by all terms and conditions imposed on UTHSC-Houston in the original contract between UTHSC-Houston and DFPS.[17]

Referral Process

The FACN receives referrals from DFPS staff. DFPS may make a referral to the FACN when additional clarification on abuse or neglect cases is needed to address child safety decisions or to ask general ongoing medical questions.[18] Pursuant to DFPS policy, DFPS must make a referral to the FACN in the following circumstances:

- There does not appear to be any reasonable explanation for a child's injury, or the explanation is not consistent with the injury.
- A child requires an in-person forensic assessment examination.
- The caseworker needs assistance to determine whether abuse or neglect 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 syndrome by proxy).
- The caseworker has a question about abuse or neglect that a medical professional may be able to clarify.
- A child younger than 11 years old has a Sexually Transmitted Disease (STD), and there is not a preponderance of evidence that abuse led to the STD.[19]
- Near-fatality cases when the treating physician is not a child abuse pediatrician.[20]

When DFPS staff refers a case to the FACN, their requests can be made via a telephone service or via a web-based submission, both of which are available twenty-four hours a day, seven days a week.[21] Under the contract, there are three types of referrals, each with a corresponding timeline within which the FACN specialist must complete the consultation and provide the written assessment. A *routine* referral constitutes any referral that is not an emergency or complex referral.[22] For these referrals, the FACN specialist has seven calendar days from the time of receipt of adequate case information to complete the assessment.[23] An *emergency* referral, as determined by DFPS staff, requires a shorter response time. These referrals require FACN specialists to complete their assessment within three calendar days.[24] Finally, a *complex* referral involves voluminous information.[25] For these referrals, DFPS and FACN specialists are to mutually agree on an acceptable time period.[26]

When making the referral, DFPS staff upload any documentation they collect for the FACN specialist to review into the web-based system made accessible to both DFPS and FACN staff. The documentation may include photographs, medical documentation, lab reports, information about the victim, statements from the alleged perpetrator and witnesses, and the DFPS intake.[27] Upon review, the FACN specialists perform any of the following actions:

- Provide their written assessment based upon the documentation provided;
- Request an in-person medical evaluation for the child either in the Emergency Room (ER) or through a clinic appointment; or
- Recommend a specialty consultation with medical experts who have training in identifying unique health conditions, many of which manifest symptoms similar to those of abuse or neglect or otherwise increase the risk of misdiagnosis.[28]

Upon completion of either the medical evaluation or specialty consultation, the FACN specialist can complete the consultation and provide a written assessment. Notably, a FACN consultation and assessment may be done without an in-person medical evaluation of the child.

Physicians can also refer cases to the FACN.[29] This occurs when a child is hospitalized or there is an outpatient referral from a physician, and abuse or neglect is suspected. The referring physician, often part of the Emergency Room team or the primary care team, can request to consult with the FACN specialists. For this type of referral, FACN specialists must provide their written assessments within three calendar days of a child being seen at a hospital or clinic.[30]

The written assessment is the final product resulting from the referral and case consultation and is uploaded into the web-based system for DFPS staff to review. The assessment consists of the FACN specialist's opinion as to whether the physical injury or condition resulted from or was likely to have resulted from abuse or neglect of a child.[31] While the FACN specialist can make various findings, "substantial" and "concerning" are the two most "significant" determinations regarding abuse or neglect, also referred to as maltreatment:

- *Substantial* – Based on the medical evidence and information provided for the case, the finding(s) cannot be reasonably explained by anything other than maltreatment.
- *Concerning* – There is concern for maltreatment based on the medical evidence and information provided.[32]

When the cause of the injury or illness is less clear, the FACN specialist may make the following finding:

- *Non-specific* – May result from maltreatment, but accidental/natural explanations are also possible.[33]

The FACN specialist may also choose one of the following *other* determinations in lieu of a statement regarding the likelihood of abuse or neglect:

- Insufficient information available, therefore unable to determine whether child was abused or neglected.
- No allegation of abuse or neglect (physician consulted for a non-maltreatment question).
- No evidence of maltreatment, or an explanation other than abuse or neglect is likely.
- At risk for maltreatment.[34]

The FACN determination is one component of a DFPS investigation. When making a disposition at the end of an investigation, DFPS considers the FACN determinations in addition to other investigative information. These DFPS dispositions include finding that there is reason to believe abuse or neglect occurred, that the allegations are unable to be determined, that the allegations are ruled out, or that the investigation was unable to be completed.[35]

Other Contract Requirements

Beyond their commitment to providing case consultations and written assessments, by contract the FACN specialists provide expert testimony in civil court cases upon DFPS' request, either via telephone or in person.[36] Additionally, UTHSC-Houston and subcontractors offer ongoing training to meet the needs of DFPS staff. The requisite training consists of a continuously posted online training concerning how to use the FACN web-based system, as well as one face-to-face training organized by DFPS in each of the eleven DFPS regions. FACN specialists can also provide up to eleven additional in-person or webinar trainings per year as requested by DFPS. Further, UTHSC-Houston maintains a peer review process for FACN specialists to help physicians come to a consensus when they disagree about an abuse or neglect diagnosis.[37] Currently, the network utilizes a monthly review process in which 10% of all completed cases from that month are randomly assigned to a reviewer from a different institution. On average, this consists of 35-40 cases being reviewed each month. The performance measures obtained from this process are reported to DFPS.

Data

The FACN network submits monthly reports to the Child Protective Investigations (CPI), Child Care Licensing (CCL), and Purchased Client Services (PCS) State Office Liaisons. These monthly reports include a list of activities categorized by DFPS programs completed during the previous month, including the following:

- Total number of referrals received;
- Timeliness of the referrals;
- Total number of written assessments provided;

- Total number of regional case consultations;
- Dates and locations where expert testimony was provided;
- Dates and locations where trainings were held;
- Any identified training needs for DFPS staff, as well as the dates, locations, and method of delivery of regional case consultations and trainings;
- Number of presentations or trainings regarding the FACN network provided by special request;
- Type of abuse or neglect involved for all of the FACN referrals;
- A report regarding client services; and
- Aggregate data regarding the statewide peer review process.

UTHSC-Houston also provides quarterly reports to DFPS which are made available via the web-based system and discussed during quarterly meetings between DFPS and UTHSC-Houston. The quarterly reports contain all the information contained in the monthly reports for that quarter.

The following data highlight information exchanged regarding the use of the FACN. In Fiscal Year (FY) 2020, DFPS referred 5,368 (3%) of their 154,593 total investigations to the FACN. Of the cases referred to the FACN, the following determinations were made: 12% *substantial*, 41% *concerning*, and 22% *non-specific*. The remaining 26% received a determination of *other*, which included no evidence of maltreatment, insufficient information available, at risk, or no allegation of abuse or neglect.[38]

Overall Disposition[39]		
Most Concerning Determination During the Investigation Stage	**Reason to Believe (RTB)**	**Other than Reason to Believe (RTB)**
Substantial	87% (581)	13% (90)
Concerning	62% (1,507)	38% (913)
Nonspecific	15% (189)	85% (1,098)
Other	18% (265)	82% (1,216)
Total	43% (2,542)	57% (3,317)

In cases with a FACN determination of *substantial*, 87% of investigations resulted in a reason to believe disposition by DFPS. In cases with a FACN determination of *concerning*, 62% of investigations resulted in a reason to believe disposition. Finally, if the FACN determination was *non-specific*, 15% of cases resulted in a reason to believe disposition.

Case Outcome Count of Cases[40]			
Most Concerning Determination During the Investigation Stage	**Removal**	**Family Preservation**	**Close**
Substantial	34% (210)	28% (175)	38% (239)
Concerning	12% (260)	20% (454)	68% (1518)
Nonspecific	4% (52)	12% (147)	84% (1022)
Other	5% (61)	11% (147)	84% (1083)
Grand Total	**11% (583)**	**17% (923)**	**72% (3862)**

Moreover, in cases with a FACN determination of *substantial*, 34% of investigations resulted in removal, 28% resulted in family preservation efforts, and 38% were closed. In other words, 66% of investigations with a FACN determination of *substantial* were referred to Family Based Safety Services (FBSS) or closed. Further, in cases with a FACN determination of *concerning*, 12% resulted in removal, 20% resulted in family preservation, and 68% were closed. Finally, where the network provided a *non-specific* determination, 4% of investigations resulted in removal, 12% resulted in family preservation, and 84% were closed. Overall, 11% of cases that received a determination from the FACN resulted in removal of a child.

Legal Framework

Legislation

SB 1578 took effect on September 1, 2021 and changed multiple aspects of the FACN. In response, DFPS and UTHSC-Houston worked to update their practices accordingly. DFPS and UTHSC-Houston are drafting a new contract, to be effective from FY 25-FY 30. The new contract is intended to continue the relationship between DFPS and UTHSC-Houston as well as to include updated requirements in the Texas Family Code.

Under Texas Family Code § 261.30175, a health care practitioner who reports suspected abuse or neglect of a child cannot provide DFPS with forensic assessment services in connection with an investigation resulting from the report.[41] Therefore, if a member of the FACN makes a report of abuse or neglect, the same practitioner cannot provide the FACN evaluation and determination. This legislative change will be reflected in the updated contract and stipulate that when any physician or specialist makes a report of abuse or neglect to DFPS, a different FACN physician or specialist must complete the forensic assessment or case consultation.

The Texas Family Code as amended also changed the way specialty consultations can be obtained.[42] Although the FACN specialists can recommend a specialty consultation and explain the benefits, only DFPS can refer the child's case for a specialty consultation.[43] DFPS must refer a child's case for a specialty consultation if the department determines the child requires it; the child's parent or legal guardian or their attorney requests it; or the child's primary care physician, or other primary health care provider who delivered health care, treatment, or otherwise evaluated the child, recommends it.[44] The specialty consultation cannot be conducted by the original reporter of suspected abuse or neglect.[45] These changes will be reflected in the updated contract between DFPS and UTHSC-Houston.

Before making a referral for a specialty consultation, DFPS must provide the child's parent or legal guardian, or their attorney, as applicable, written notice of the name, credentials, and contact information of the specialist.[46] The child's parent or legal guardian, or their attorney, as applicable, may object to the referral and request an alternative specialist. DFPS staff must collaborate with the parent, legal guardian,

or attorney in good faith to select an acceptable specialist.[47] However, if necessary, DFPS may refer the case to a specialist licensed to practice medicine in Texas over the objection of the parent, legal guardian, or attorney.[48]

Further, Texas Family Code § 261.3017(e) specifies that the parent, legal guardian, or attorney of the parent or legal guardian can obtain a second opinion from a physician or other health care provider of their choice at their own initiative and expense.[49] DFPS must accept and consider this alternative opinion, also referred to as a second opinion, as well as document its analysis and determinations regarding the opinion.

Scope of the FACN

The following entities participate in the Forensic Assessment Center Network: UT Houston: CARE Center; UT Southwest: REACH Program; UT Health Science Center at San Antonio: Center for Miracles; UT Medical Branch at Galveston: ABC Center; Texas Tech University: Pediatric C.A.R.E Center; and Dell Children's Medical Center. Each entity in the FACN has a team of medical professionals who evaluate cases involving suspected abuse or neglect. Each team has at least one physician who is experienced in evaluating and treating cases of child abuse or neglect, though not every team has a physician who is board certified in child abuse pediatrics.[50] Teams sizes range from one to five physicians.[51] FACN teams may also include various other medical professionals, such as general pediatrics, nurse practitioners, pediatric fellows, child and adolescent psychiatrists, clinical nurse specialists, social workers, project analysts, clinical program managers, and Sexual Assault Nurse Examiner (SANE) coordinators. Each team includes a site coordinator.[52]

DFPS has a contractual relationship with the FACN, which allows the department to make requests to any medical provider associated with FACN.[53] However, the contract does not limit DFPS' ability to make requests to any medical provider outside the network.

It is important to note that FACN specialists and CAPs are not the same. Not all pediatric specialists who are part of the FACN are CAPs and not all Texas CAPs are part of the FACN. The FACN has specific contracts with the medical facilities listed above, and a limited number of pediatric specialists at those facilities are part of the FACN.

MEDCARES

In 2009, the 81st Texas Legislature passed SB 2080 and created the Texas Medical Child Abuse Resources and Education System (MEDCARES) grant program in order to develop and support regional initiatives for the improvement of services and scholarly activity related to the assessment, diagnosis, prevention and treatment of child abuse and neglect.[54] The Department of State Health Services, through MEDCARES, awarded grants to hospitals or academic health centers with expertise in pediatric health care and a demonstrated commitment to developing programs and centers of excellence for the assessment, diagnosis, prevention and treatment of child abuse and neglect.[55] Effective September 1, 2009, FACN and MEDCARES Pediatric Centers of Excellence were approved for appropriation. MEDCARES offered support for additional training, education to community partners and providers, clinical services (x-rays/labs), and support for medical providers and social workers, case managers, and therapists. However, this funding ceased in 2021.

Listening Session

Listening Session Discussion

On April 4, 2022, the Children's Commission offered a "Listening Session" for parents to share their experiences and concerns about the department's use of the Forensic Assessment Center Network. The purpose of the Listening Session was to create a parent-driven discussion about their experiences and to elicit suggestions to improve the communication and process between the FACN, DFPS, and families. The goal of the Listening Session was to reach a broader group of parents than those attending the Round Table and to provide a forum to focus solely on parent voices and recommendations.

Children's Commission Executive Director Jamie Bernstein moderated the discussion with Children's Commission, DFPS, and Texas Public Policy Foundation staff participating in listen only mode. DFPS attended to listen to the discussion and the suggestions provided by the parents on ways to improve the FACN. The discussion followed a Q&A format, with the questions developed by the Children's Commission in collaboration with DFPS and provided to the parents in advance.

Four families from the Listening Session also participated in the April 11, 2022 Round Table meeting to represent the parents' perspectives in the larger multidisciplinary group of attendees. This Listening Session helped to shape the discussion at the Round Table where various perspectives were represented including DFPS, FACN, judges, attorneys, advocates, and others. *See* Appendix A for a full list of Listening Session participants. Below are the notes from the Listening Session discussion.

Question: When did you come into contact with DFPS and the doctors in the network? Where did that contact occur?

Each parent who joined the Listening Session as a participant ("participant") provided details of their initial contacts and location. Many participants first had contact with a CAP in a hospital setting and others were initially contacted by a DFPS caseworker. One participant only had contact with the CAPs and did not have a DFPS case. The years of involvement ranged from 2010 to 2022. The participants' contact with DFPS or CAPs originated from urban, suburban, and rural areas surrounding Abilene, Dallas-Fort Worth, and Houston. In at least one case, the CAP involved was not part of the FACN.

Question: What information do you think would have been helpful to you, your attorneys, or the judge?

Participants identified several overarching themes regarding access to information:

- The need for more clear information about their legal rights, the legal process, and system protocols;
- The need for transparency on behalf of DFPS and CAPs; and
- The importance of addressing the impact of the allegations on families during ongoing events where families were experiencing high levels of stress.

Regarding information for parents, participants expressed that misstatements and miscommunication from hospitals, DFPS, and CAPs were prevalent in their cases, which led to confusion and unfairness. They expressed that clear understanding of the process and timelines would have been helpful. Participants

reported multiple meetings and court dates that parents missed due to lack of notice or gaps in the process. Some participants, but not all, shared that they were given a DFPS Handbook, but reported that the handbook did not fully assist with navigating the systems involved. Some participants further explained that being able to read and process DFPS policy when in a highly emotional state was very difficult. Something akin to an FAQ was suggested as a helpful tool to navigate the process from the outset (i.e., a booklet explaining parents' rights, the investigatory process, what to expect, and the full legal process).

Participants expressed a need to know their rights as parents during their interactions with DFPS. Many participants indicated they did not know they had the right to refuse certain medical procedures, refuse to speak to the CAP, or refuse to speak to DFPS. The participants also indicated concern about the CAP consultation process. Many were not aware of and did not understand the role of the CAP. It was not until the DFPS caseworker spoke with them about their investigations that many of the participants understood the CAP's role. One participant did not know a CAP was involved until after DFPS had taken custody of the child.

All participants acknowledged that communication gaps were also intensified due to the fact that they were concerned about their child. When a DFPS investigation occurs while a child is ill or injured, parents are oftentimes preoccupied with the health of their child and may not fully absorb or understand the full process of the investigation. It may not be until later that parents fully comprehend and understand the scope of what is occurring legally and/or medically. Several participants indicated they did not understand at the time that the additional tests and consultations may be used to help determine whether abuse or neglect occurred. Participants stated that because they did not have a full understanding of the purpose for certain tests, they did not have adequate information to give informed consent. One participant highlighted that along with the stress and worry of having an ill or injured child, many families in this situation might be dealing with external, co-occurring stressors such as natural disasters, COVID-19, or other emergent situations that impact their ability to fully comprehend the evolving medical and legal issues.

Regarding what would be helpful for judges making decisions in these cases, participants stated that full transparency and accurate reports to the court from all child welfare professionals early in the case could have avoided unnecessary trauma and in some cases, removal. For example, some participants pointed to the contradiction of accusing a parent of removing their child from the hospital against medical advice when the parent received complete discharge papers for their child.

Participants indicated frustration that they were only given partial information from the CAPs and DFPS. Many families obtained second opinion information or had prior information from their child's pediatrician or other treating doctor which disputed the CAP findings. In these instances, that contradictory information was not added to their files, was disregarded, or not provided to the judge. Participants also emphasized that it is critical for DFPS to inform the parents of the investigation and disclose the allegations, as this was not reported as a consistent practice.

Participants also noted that having full access to their child's medical file and the DFPS file is very important. Participants indicated that they struggled to understand and respond appropriately to the process as many consultations, affidavits, and conversations contained incomplete information.

Question: What were the gaps in the way the system worked with your family?

The participants identified multiple gaps with DFPS' use of the FACN, including rushing the diagnosis and investigation, lack of an early appeals process, lack of transparency, not adequately considering second opinions, unavailability of early and affordable legal representation, and the need for more extensive training.

Many of the participants expressed frustration at not being able to appeal, mediate, or otherwise challenge the CAP's findings. Participants expressed that in their experience, once the CAP made the decision of suspected abuse, no other opinion of medical professionals was taken into account. They reported not having an avenue for the CAP's opinion, along with all medical records, to be reviewed by another medical professional that DFPS would consider. Participants also articulated concern that the CAPs made recommendations for removal but stated that this should be a decision made by DFPS, not the doctors.

Participants also reported a lack of transparency about the relationship between the hospitals and DFPS. They reported uncertainty and confusion regarding which personnel worked for the hospital and who DFPS employed during the DFPS investigation process. They reported that a guide which lays out the process and persons involved would be beneficial.

Additionally, participants expressed concern that the CAPs aimed to protect the hospital from liability and would provide vague descriptions or provide statements such as "this is my opinion." Participants also indicated that DFPS staff relied heavily on CAP determinations because the DFPS staff are not medical professionals. Participants noted that this approach created a gap in accountability for DFPS to fully investigate and make its own accurate determinations. Further, some participants indicated that malpractice protections left them without recourse against the doctor or hospital who suggested that the injuries or illness were the result of child abuse or neglect.

Participants also discussed barriers to obtain legal representation, including the high cost of representation and the need to have legal representation early in the process. All participants reported wanting to cooperate with the medical teams and DFPS to help find out what was wrong with their child, but they did not realize they were being investigated as perpetrators.

The participants also addressed gaps in documentation. Participants provided multiple examples where full medical records were not part of their file, inaccurate statements were documented, and incorrect information was relayed. For example, one participant indicated that they were portrayed as a flight risk for seeking second opinions.

The participants identified a gap in training for DFPS investigators. Participants indicated that DFPS investigators rely on the CAP's opinion and lack training on medical diagnoses that mimic abuse. The participants recommended specialized training for DFPS investigators regarding children with complex medical needs, obtaining second opinions, and investigating multiple sources of information.

Additionally, participants recommended improved training on the way DFPS investigators approach an investigation. Participants reported that they were treated as "guilty until proven innocent." They expressed feeling that the burden is on the caregiver to show abuse/neglect did not occur, instead of being on DFPS to prove that abuse/neglect did occur. Participants indicated that even the term "alleged perpetrator" put them at a disadvantage and created a burden to overcome.

Question: What changes do you think would help families who find themselves in a similar situation in the future? What additional recommendations do you have to improve the use of the network?

The participants shared many recommendations to help improve the use of the Forensic Assessment Center Network.

One recommendation was the development of a parent advocate, mentor, or support program that provides help for families to navigate the process. Participants suggested this could help bolster caregivers and ensure their voices are heard.

All of the participants supported the idea of overhauling the review system both for current and prior cases. For current cases, participants recommended strict policies against allowing the CAP who initially made a determination about abuse or neglect to participate on the administrative review panel, a process that the participants believed had occurred. Participants argued that a doctor who believes abuse or neglect occurred is biased and unable to adequately review their own work. Similarly, participants recommended that doctors should be prevented from reviewing their colleague's determinations as there may be pressure to not contradict a colleague or a designated child abuse specialist.

One suggestion from participants is a blind review process where all identifying information on the child and medical professionals is removed to protect against potential bias and to allow the doctors to review all medical evidence in a fair and neutral environment.

Participants further suggested that the FACN should implement a review process for closed cases where there is a medical diagnosis that contradicts the CAP's determination about abuse or neglect to learn whether protocols were followed and what steps could be taken to ensure accurate determinations. This includes reviewing new medical records and evidence to determine whether the assessment of abuse was correct.

Participants recommended that improved data collection and analysis would be beneficial to better identify and address systemic issues.

One participant suggested that complex medical cases should perhaps not be handled by a CAP but by the expert(s) trained in that particular area of medicine (i.e., radiology). Participants emphasized that CAPs have special training in evaluating child abuse, which does include training in hematological disorders, birth trauma, and other complex medical conditions, but the specialists trained in these areas may be better equipped to handle cases involving these conditions. Another approach suggested by participants would be to utilize a review panel to intervene in complex medical cases. Participants identified the need for checks and balances and developing an evaluation process to ensure there are no "bad actors" in the network if it continues in its current structure.

One participant suggested creating a uniform, but modular protocol for DFPS investigators and CAPs in complex medical cases. The goal would be to help ensure consistency so that an inquiry about second opinions is always made, that all medical records are obtained, that questions are always made about family history, that regular pediatricians and treating physicians are routinely and regularly interviewed, etc. However, another participant cautioned that a "one size fits all" approach is not appropriate and could limit flexibility to make determinations based on all the evidence presented.

Additionally, participants suggested that investigators should be trained to ask certain questions about how to care for the child when indicators of complex medical needs are present such as use of an oxygen tank, specific prescriptions, etc.

Participants recommended better training on the statutory changes implemented with Senate Bill 1578, especially in light of the fact that one of the participant's cases occurred after the effective date of the bill.

The participants agreed that the lack of transparency during the DFPS investigation led to distrust and miscommunication during the process. Participants acknowledged living in fear while waiting for DFPS to contact them. Participants also noted that their efforts to set up family team meetings and other outreach to DFPS was sometimes met with delay or unwillingness to meet. This was a very challenging experience while they were also waiting to obtain answers about the injury or illness their child was facing.

The participants also recommended reviewing the medical billing process for cases involving suspected abuse or neglect and comparing it to other systems. Participants noted that children are sent for numerous or duplicative tests and treatments during the investigation and insurance and Medicaid could be paying for many unnecessary tests.

One participant indicated how frustrating it was for them to experience this entire process and then have DFPS file nonsuit against them and close the case before the family was able to present their case to the court. Also, participants noted that if DFPS did not list the CAP as an expert witness in the case, the family was not able to depose the CAP.

Participants emphasized that these investigations and cases are traumatic for the entire family and that this trauma does not disappear when the case closes. Participants emphasized that doctors, medical staff, and DFPS staff must all understand the impact of these investigations on the families, including on their financial and mental well-being.

Participants identified the significant financial strain that resulted from FACN and DFPS involvement including seeking second opinions, hiring experts, etc. This is a challenge for all participants but especially challenging for low-income families. Identifying a source of funding to defray these costs was another identified recommendation from participants.

The participants also recommended a financial recourse for families to regain financial wholeness, as many spent their life savings in response to the investigation and are currently still in debt from the allegations against them. Participants expressed that this recourse would provide further checks and balances in the system and ensure all records are reviewed and multiple second opinions are taken prior to removal of a child and provide an increased level of accountability for all involved.

Five participants from the Listening Session attended the Round Table held on April 11, 2022. These participants were able to share their concerns with other attendees at the Round Table. The ensuing discussion informed the following recommendations.

Round Table – Priority Recommendations

Round Table Discussion

On April 11, 2022, the Supreme Court of Texas Children's Commission, in partnership with DFPS, hosted a Round Table in Austin on the use of the Forensic Assessment Center Network. Hon. Rob Hofmann, Judge of the 452nd District Court and Children's Commission Senior Jurist in Residence, moderated a five-hour

discussion. Forty-five participants attended, including representatives from DFPS, parents with experience with the FACN, parent and child advocates, Child Abuse Pediatricians, other pediatric specialists, judges, and attorneys who represent parents, children, or DFPS. *See* Appendix A for a complete Round Table participant list. The Round Table provided a forum for all attendees to discuss the department's use of the FACN, identify gaps in the usage of FACN, and develop recommendations.

Through conversations generated during the Listening Session and the Round Table, DFPS with the assistance of the Children's Commission evaluated the use of the FACN and developed joint recommendations to improve the agreement between DFPS and the FACN, and to identify best practices for using assessments provided by the FACN. Overarching themes include the need for increased accountability and transparency about the relationship between DFPS and the FACN as well as improved communication between DFPS, FACN medical staff, and parents, and the need for additional clarity and guidance about the DFPS investigation process when the FACN is involved.

The priority recommendations are laid out in *italics* and addressed in the categories listed below.

- Contract
- Resources
- Training
- Data & Information Sharing
- System Improvement

It is critical to note that not every participant at the Round Table or Listening Session agreed or supported each of the recommendations laid out below. While there was some support for each recommendation, this report does not represent unanimous consensus for all participants. Rather, this report summarizes the key takeaways and themes discussed in both the Listening Session and Round Table.

Contract

Prior to the Round Table discussion, all participants received a copy of the FY 20-24 Interagency Contract entered into by DFPS and UTHSC-Houston and a draft of the pending FY 25-30 contract. The draft includes various updates and changes in response to SB 1578. The joint recommendation below aims to improve both the transparency and consistency in the FACN process.

Require standardized and detailed information in the FACN report that supports the determination.

Concerns regarding transparency arose during the Round Table discussion, as there were reports of parents having difficulty obtaining medical information. Families reported that it was not always clear what information the FACN specialist used to make their determination.

The FY 20-24 Interagency Contract states that the medical professional providing the FACN consultation would produce a timely written assessment of the results of the case consultation submitted by the FACN to DFPS and an affidavit or other documentation to meet the court or administrative hearing requirements, if requested by DFPS.[56] Currently, the FACN provides a written assessment to DFPS once a consultation is complete. That assessment may contain information in the following categories: history and physical, birth history, developmental history, past medical history, home medications, allergies,

immunizations, past surgical history, primary pediatrician, social history, family history, review of systems, physical exam with vitals and a detailed body system examination, labs, imaging, and determination.

Although the FACN assessments contain much of the vital information needed, a joint recommendation by DFPS and the Children's Commission is for the future contract to include details of what is required to be included in the final written assessment, such as listing the documentation the FACN specialist reviewed in making the assessment, who the FACN specialist consulted with, and what, if any, additional information the FACN specialist thinks could be pertinent to the child's assessment. While many FACN specialists may include this in their determination, the contract does not specify what information must be included. To help ensure this information is available to all parties, the contract should also require FACN to provide the medical records and FACN records to DFPS in a timely manner.

Resources

The Listening Session and Round Table identified the need for additional support to families, child welfare professionals, and medical specialists in cases involving the use of the Forensic Assessment Center Network. These resource recommendations are designed to address checks and balances in the system so that parents know their rights and all other stakeholders fully understand their roles and responsibilities.

Create a DFPS specialist position at the state or regional level focused on complex medical cases.

The DFPS investigation and the FACN network are each complex and when the two intersect, it can be difficult for parents to navigate. Contributing to this challenge is that there are multiple additional systems that often intersect with DFPS' child welfare process, such as health care (i.e., Medicaid) and education. Accordingly, DFPS has subject matter experts to help children and families navigate these specialty areas. Each region is equipped with a Well-Being Specialist[57] and an Educational Specialist.[58] The state office liaisons also serve as the regional point of contacts for staff who encounter specific issues related to the nuances often involved with these intersecting systems. Additionally, DFPS employs six nurse consultants. These nurse consultants are licensed Registered Nurses who do not function in a clinical direct patient care role but provide consultation and education to CPS staff about health care issues related to children.[59]

The FACN and DFPS would both benefit from a subject matter expert at the state or regional level to consult with the nurse consultants and DFPS staff on cases involving the use of the FACN. Of the 154,593 completed investigations in FY 2020,[60] 6127 involved a referral to the FACN.[61] Thus, approximately 3.47% of all investigations were also reviewed by the FACN[62] in that year, resulting in a situation where a CPI caseworker is unlikely to refer a case to the FACN on a regular basis. By identifying a state or regional subject matter expert who knows both the duties of DFPS and of the FACN, specialized knowledge and expertise would be readily available to ensure proper handling of these complex cases.

Explore the creation of a uniform protocol for DFPS investigations involving allegations of child abuse or neglect in complex medical cases.

The CPS Handbook provides guidance for investigations on when to make a referral to the FACN but allows for discretion for CPI caseworkers.[63] While some flexibility is important for investigations, allegations of child abuse or neglect in complex medical cases can be quite complicated thus leading to potential inconsistencies in caseworker practice.

One recommendation to address this concern is to create a uniform protocol for all cases that involve the FACN. A uniform protocol should not be implemented to require a "cookie cutter" approach but rather to

ensure that certain practices are established with regularity and uniformity across the state. Topics in the protocol could include interview techniques such as ensuring that a full birth and medical history of the child and family is gathered by the CPI caseworker, that the names and phone numbers of any medical professionals who examined the child are noted and interviews are scheduled, and that additional inquiry into a heredity or genetic condition are asked during the DFPS interview.

Clarify the roles of the DFPS Child Protective Investigator and the FACN specialists.

The CPI caseworker and FACN specialist may not be the only professionals who parents will encounter during an investigation. Parents may also encounter CAPs who are not part of the FACN. These CAPs are not contracted with DFPS to provide written assessments and do not have a formal documentation review process set up with DFPS. Similarly, if a CAP is part of the FACN network, a family may not understand the scope of the relationship between the FACN and DFPS and may feel they are not getting a fair assessment or investigation due to this relationship. Since it is not always understood or made clear when a CAP is involved with DFPS and how that can impact the case, this can add confusion and frustration to an already stressful situation.

Pursuant to Texas Family Code §261.307, during an investigation DFPS must provide the parent or guardian with information about the investigation procedures, legal rights, and other important information.[64] DFPS provides this information to parents through a handout and online webpage called "A Parent's Guide to Department of Family and Protective Services (DFPS) Investigations"[65] to help navigate a DFPS investigation.

One way to address the confusion around DFPS and the FACN would be for DFPS or the Children's Commission to create a separate resource specifically for families who are involved in an investigation when the FACN is being consulted. This resource should include information about the roles of the professionals involved, the process of a FACN referral, the referral for a specialty consultation, and the use of second opinions.[66] This resource may also contain information about role clarity when a CAP is involved but is not part of the FACN.

To aid in increased transparency, the FACN specialists should also clearly identify themselves and their role when interacting with parents and should document the specialists who interacted with or examined the child who is the subject of the FACN report.

Create and utilize a medical resource form for parents to complete that includes clarifying medical information for DFPS during an investigation.

An investigation with a FACN consultation may involve a child with a complex medical history or an undiscovered medical condition. Parents often have critical information related to the care of the child and a process should be in place to ensure that information is captured as early as possible. This can assist with the child's medical care as well as identify conditions that could mimic abuse or neglect.

DFPS utilizes forms for other purposes to ensure critical information is not lost during the early stages of an investigation. For example, if an investigation may result in an out-of-home placement of the child, the CPI caseworker will present the parents with DFPS Form 2625, *Child Caregiver Resource Form*.[67] The purpose of this form is for the parent to provide the names and locating information for relatives who the parents may want to care for the child until the parent is able to have them return to their home.[68] Another example is the use of DFPS Form 2279, *Placement Summary* which contains a section for the child's medical history including listing medical conditions, medications, and name of primary physician and any specialists.[69]

By utilizing a medical resource form at the investigation stage, parents could share information about their child's medical needs in their own words and descriptions. If created, this information could be utilized in cases where a FACN referral is made and be submitted to the FACN by DFPS. This form may also aid the FACN specialists in their case consultation and documentation review.

Explore a blind review process of FACN determinations from an outside medical team.

Texas Family Code § 261.3017 contains a provision which states that the FACN and DFPS must use a blind peer review process to resolve cases where physicians in the network or system disagree about the assessment of the causes of a child's injuries.[70] This blind review process is reflected within the FY 20-FY 24 contract between DFPS and UTHSC-Houston where Article 2 – Scope of Service provides that there must be a peer review process for physicians.[71] Section 2.5 then goes on to state that "[d]uring the contract period, UT will maintain the peer review process for physicians. The process should help physicians come to a consensus when they disagree about an abuse/neglect diagnosis."[72] The current contract and practice require that the FACN network conduct a peer review process when there is a disagreement. However, due to staffing concerns, this review is conducted only in a small number of cases referred to the FACN.

To increase accuracy and transparency, blind peer review should be available in a greater proportion of cases referred to FACN. This would likely require increased funding and could require additional contracts. DFPS and the FACN will continue to utilize the blind peer review process, but should additional funding be added for the FACN program, an external review by non-FACN medical professionals can be explored.

Improve communication between parents, DFPS, and all medical professionals.

In DFPS investigations when the FACN is involved, communication can be a challenge between the parents, DFPS, and medical professionals. The CPI caseworker speaks with the FACN specialist and with the parents; depending on the case facts, the FACN specialist may speak with the parents. Each party may hear or interpret information differently across these various conversations and information can be lost or misconstrued.

DFPS fully supports collaborative approaches to service planning and decision-making and currently utilizes various approaches to engage family and support systems for children and their families involved with DFPS such as a Family Group Decision Making model, Family Team Meetings, Family Group Conferences, Circle of Support Transition Plan Meetings, and Permanency Conferences.[73]

Most relevant to complex medical cases, the Family Team Meeting is generally conducted if a child may be removed from their home. These meetings enable DFPS to provide a quick, family-involved response to concerns about the child's safety or placement and achieve positive results for the child during the earliest stages of DFPS interaction with the family.[74] DFPS can make best efforts to improve communication between their staff and parents by utilizing a Family Team Meeting when appropriate and inviting medical professionals to participate to encourage everyone involved to hear the same information at the same time.

Clearly articulate to parents what their rights are during a DFPS investigation when the FACN is involved.

Parents should be informed of their rights during a DFPS investigation, especially when a child is receiving medical care in a hospital setting. As noted previously, when a child is ill or injured, a parent's first concern is typically for the health and well-being of their child. In the hospital setting, medical providers treat the child and aim to ensure their health and safety. This situation can create a very fast-paced and stressful

environment. Information and guidance should be provided to parents to assist them with navigating this process. This guidance can be developed by DFPS in collaboration with the Children's Commission's Parent Resource Workgroup or other multidisciplinary groups that include parents with lived experience and parent advocates.

Provide clear guidance about the administrative review process and expungement of records.

During the Listening Session and Round Table, parents expressed concerns regarding a desire to have a fair review process. Parents reported that if they were able to have their children returned to their care by the court after DFPS involvement, they still faced the stigma and challenges of a "reason to believe" finding within the DFPS system which could impact the future for their families (i.e., employment).

Having proper avenues to dispute administrative determinations of a "reason to believe" finding is an important part of the review of DFPS Investigations.[75] One avenue for review of this determination is the Administrative Review of Investigation Findings (ARIF).[76] DFPS offers a review of their internal findings when CPI makes a finding of "reason to believe" against a person for abuse or neglect of a child and that person requests such a review.[77]

An ARIF is conducted by an employee of DFPS known as a resolution specialist, who is not involved in or directly supervising the investigation. Participants may appear, make statements, provide relevant written materials, and ask questions, but the formal rules of evidence do not apply, and the review does not include formal witness testimony.[78] An interpreter, legal representative of the requester, parent or guardian (if requester is a minor), or a support person may be permitted to attend the ARIF. [79] If the requester/parent disagrees with ARIF decision, they maintain their right to seek an administrative hearing.

If the ARIF results in a change to disposition, the resolution specialist must ensure that the records of the allegation in the DFPS case management system (IMPACT) reflect the decision made in the ARIF.[80] Under Texas Family Code § 261.315, a requestor/parent is entitled to request the removal of information from DFPS records concerning their role as an alleged perpetrator as a result of the ARIF.[81] The Texas Administrative Code § 707.517(c) gives detailed instructions on how a request can be made to remove records, but this may not be easy for a parent to navigate to completion without guidance.

Another avenue for an administrative review for parents is the State Office of Administrative Hearings (SOAH). The mission of SOAH is to resolve disputes between Texas agencies, other governmental entities, and private citizens either through an administrative hearing or mediation.[82]

The hearing consists of a SOAH judge, who has the sole authority to issues orders without involvement of any panel of persons.[83] During the SOAH hearing, exhibits and witnesses[84] may be called by both parties and under the FACN contract, DFPS may call the FACN specialist for their case. Once the judge makes a final decision, "the judge shall furnish a copy of the decision to [DFPS] and to each party."[85]

Additional guidance can equip requesters/parents with a better understanding of how to navigate these complex processes. Offering more guidance in these areas will support DFPS' goal of delivering results in an accountable, ethical, and transparent manner.[86]

Training

Perhaps the clearest theme from the Listening Session and Round Table was that "practice needs to match policy." Due to a variety of factors, DFPS policy does not always flow to the caseworkers in the field, resulting in inconsistent practices. One key approach to addressing this gap is through effective training.

The Listening Session and Round Table shed light on areas where additional training would be beneficial to aid in the transparency and accuracy of a DFPS Investigation when the FACN is involved. This includes training multiple groups, including DFPS staff as well as the legal and medical communities. DFPS and the Children's Commission can coordinate efforts and partner with other organizations to offer additional training opportunities to these audiences.

Training for DFPS staff

Provide clear guidance for DFPS investigations in complex medical cases.

Additional training may be needed to address the following areas during a DFPS investigation: when the CPI caseworker should utilize the FACN, what questions a CPI caseworker should ask when a FACN referral is made, and what information DFPS should provide to the FACN.

To address the first point, DFPS Policy Section 2232 outlines when DFPS caseworkers should make a referral to the FACN[87] and DFPS provides a resource guide for caseworkers to use when determining if they should consult with the network.[88] Although these two resources are available for CPI caseworkers, DFPS supports a more detailed training for caseworkers that provides specific guidance on cases where the FACN is consulted.

The second point addresses training on what questions a CPI caseworker should be asking when a FACN referral is made. The role of the CPI caseworker is to "investigate a report that meets the statutory definition of abuse or neglect…"[89] Investigations which require the use of the FACN consultation are typically those with complicated medical issues.[90] Also, as the data show, due to the complexity of the investigation there may be an increased number of persons to interview including the parents, caregivers, and multiple medical providers, both past and present.

The third point to address for training in this area relates to what information should be submitted by the CPI caseworker to the FACN and what information the FACN medical staff needs. Currently, instructions for submitting a FACN referral include that a caseworker can "attach documents and pictures directly… [t]his may include items such as medical records or X-rays, information concerning the child's developmental capabilities, laboratory test results, and photographs in order for the physician to have sufficient information to provide an accurate and complete report."[91] Training caseworkers on gathering a complete medical history and then obtaining those historical medical records will aid both CPI caseworkers and the FACN in their assessment. No two cases are identical, and it is important that the FACN specialists receive a full picture of the child's health as early as possible.

Consider second opinions in complex medical cases and obtain second opinions as appropriate.

Another area of training that the Round Table identified as needing additional guidance for CPI caseworkers relates to the issue of second opinions.

Texas Family Code § 261.3017(e) outlines the following directive for DFPS when presented with a second opinion: "[t]he department shall accept and consider an alternative opinion obtained and provided under this section and shall document its analysis and determinations regarding the opinion."[92] Additionally, DFPS Policy Section 2232.2 supports this directive that "[t]he family is not prohibited from seeking an alternative opinion at their own expense. If the family seeks a second medical opinion, the caseworker must accept and consider this alternative opinion and document it in the contact narrative in IMPACT."[93] Both the Family Code and DFPS policy align in how a second opinion must be handled by the CPI caseworker, which is to accept and consider them.

Additional training for DFPS staff can address the various types of second opinions to ensure that the practice of its staff matches the law and its policy. The training should include next steps for caseworkers regarding submitting the second opinions and follow up documentation to the FACN.

Interview the child's regular treating physicians and any specialists who provided care for the child prior to the investigation.

To ensure a full and complete DFPS investigation when the FACN is involved, DFPS caseworkers should make contact and interview the child's regular treating physician, and any specialists who provided care for the child prior to the opening of the DFPS investigation. Often, these medical professionals have critical information about recent treatment or diagnosis or perhaps relevant medical history that should be included as part of the DFPS investigation. By interviewing those medical professionals who had prior contact with the child, DFPS investigators can see a full picture of the child's condition or identify missing pieces which need further investigation and inquiry. This information may also assist DFPS investigators in reaching a determination about the child's safety in a more expeditious manner.

Present clear and thorough documentation and evidence to the court, including second opinions and relevant medical testing.

The final area for training specific to DFPS caseworkers relates to the removal affidavit. Prior to taking possession of a child, absent exigent removals,[94] a petition requesting permission to take possession of a child must be supported by an affidavit."[95] A judge then reviews the petition and accompanying affidavit and makes findings under the Texas Family Code § 262.102 that:

- There is an immediate danger to the physical health or safety of the child, or the child has been a victim of neglect or sexual abuse;
- Continuation in the home would be contrary to the child's welfare;
- There is no time, consistent with the physical health or safety of the child and the nature of the emergency, for a full adversary hearing; 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 of the child.[96]

Additionally, "[a] determination under this section that there is an immediate danger to the physical health or safety of a child or that the child has been a victim of neglect or sexual abuse may not be based solely on the opinion of a medical professional under contract with the Department of Family and Protective Services who did not conduct a physical examination of the child."[97]

Affidavits prepared by the DFPS caseworker must include the relevant facts for a judge to make the findings listed above. Additional expanded training regarding affidavit writing as it relates to cases involving complex medical cases and the FACN could benefit families' understanding of the medical diagnosis and equip attorneys and judges with the information needed at the beginning of a case. In complex medical cases, there is often a voluminous amount of information that the CPI caseworker must condense into a few pages within the affidavit for the judge. When a second opinion is obtained and when relevant medical testing is being processed, it is imperative that this information is presented to the court so that the court has a clear picture of all explanations regarding the child's health. The additional training noted above regarding information gathering and alternative opinions will help the CPI caseworker in preparing their affidavit for the court.

Training for Attorneys

When a family is involved in a child welfare proceeding, quality legal representation is essential for all parties to ensure that the court strikes the appropriate balance between the rights and duties of all parties involved. DFPS and the Children's Commission recognize the important role of attorneys and the need for them to have specialized training for cases involving the FACN.

Support training for attorneys who represent DFPS on complex medical cases.

For representation during the filing of a Suit Affecting the Parent Child Relationship, DFPS utilizes regional DFPS attorneys as well as district and county attorneys. Prior to filing suit, the attorney who represents DFPS will review the CPI caseworker's affidavit to assess the sufficiency of the evidence. In order to provide quality legal representation, these attorneys should understand how to handle complex medical cases.

The Children's Commission 2022 version of the *Tool Kit for Attorneys Representing the Department of Family and Protective Services in Child Welfare Cases* will be updated to include guidance on cases involving allegations of child abuse and neglect and the FACN.[98] Additionally, the Children's Commission and DFPS can identify training opportunities for attorneys who represent DFPS to ensure they are familiar with the FACN process including asking questions about an second opinion, historical and current medical records and disclosure of those records if a specialty consult has been requested, and to always inquire whether the parents have retained counsel.[99]

Identify training opportunities about complex medical cases for attorneys who represent children and parents.

If DFPS files suit seeking to terminate the parent-child relationship, or seeking required participation in services, the court must appoint an attorney ad litem to represent the interest of the child and a separate ad litem for a parent who is found to be indigent and in opposition to the suit.[100] Part of quality legal representation is equipping attorneys with knowledge and tools to ensure they understand the scope of their duties and the law. Cases involving a referral to the FACN may not be common, but they are likely to be complex and additional training could strengthen legal advocacy.

Topics that the Round Table identified as additional training for attorneys relate to knowing the process of the FACN, how medical records can be obtained in an expedited manner from the hospital or DFPS, whether a formal discovery request is needed, and whether there is a faster way to obtain evidence.

One critical training topic for attorneys is regarding Texas Family Code §262.014, Disclosure of Certain Evidence. This provision of the Texas Family Code requires upon the request of the attorney for a parent or the attorney ad litem for the child, that DFPS provide the name of any witness to be called at the adversary, a copy of any offense report used to refresh the memory of the witness, and a copy of any photograph, video, or recording presented as evidence at the hearing. By providing expanded training on this provision, more attorneys who represent parents and children can access critical information such as medical records and the names of medical witnesses before the date of the adversary hearing, or request exclusion of such evidence if not properly produced.

Additionally, the Round Table identified specific training for ad litem attorneys to utilize their ability to request information relating to the child under Texas Family Code § 107.006. The Children's Commission published its *2022 Tool Kit for Attorneys Representing Parents and Children in Child Welfare Cases* which included a specific chapter with guidance on cases involving allegations of child abuse and neglect when the FACN is involved.[101]

Training for Judges

Provide training on handling complex medical cases to judges who oversee child welfare cases.

Judges who oversee child welfare cases are tasked with making judicial determinations about the safety, permanency, and well-being of a child and their family. A judge's decision is based solely on the evidence presented and must weigh the credibility of that evidence based upon their training and education. By providing statewide training designed specifically for judges on the purpose, use, and role of the FACN, including changes implemented in response to SB 1578, judges will be better equipped to oversee these types of cases in their courts.

Training for all Child Welfare Professionals

The following topics were identified at the Round Table to be beneficial to those previously-mentioned professionals, along with other professionals such as the medical community. Some of these topics and associated audiences may be beyond the scope of the Children's Commission and DFPS' reach and will require additional collaboration with other entities.

Expand training on conditions that mimic child abuse and ways to utilize FACN specialists.

Texas Family Code § 261.3017 identifies four conditions which may mimic physical abuse: rickets; Ehlers-Danlos Syndrome; osteogenesis imperfecta; vitamin D deficiency; and broad category of "other medical conditions that mimic child maltreatment or increase the risk of misdiagnosis of maltreatment."[102] By providing training on conditions which can mimic child abuse to professionals who are involved when the FACN is being consulted, all professionals can become more aware of alterative explanations as to why a child may be ill or injured.

Provide additional training and clarification on the FACN term "non-specific" findings.

As previously discussed, the FACN uses seven types of findings when making a written determination upon completion of their consultation: substantial, concerning, non-specific, no evidence of maltreatment, at risk for maltreatment, insufficient information available, and no allegation of abuse or neglect. Specifically, the use of "non-specific," which means the child's injury may result from abuse or neglect, but that accidental/natural explanations are possible,[103] can cause confusion for child welfare professionals. In order to ensure each case is properly being evaluated and assessed, a FACN evaluation with this type of determination may require additional in-depth investigations and the collaborative effort of all child welfare professionals.

Provide statewide trainings on complex medical cases with second and conflicting opinions.

Second opinions are critical to the care of children and to the rights of parents involved with DFPS in cases involving the FACN. Senate Bill 1578 added specific provisions to the Family Code to help ensure all child welfare professionals recognize the importance of these second opinions. Additional training is recommended for all child welfare professionals on the right of a parent to obtain a qualified second opinion, how DFPS must accept and consider this second opinion, and how judges must consider this opinion when evaluating immediate danger to a child.

Develop trainings on changes to the FACN and DFPS policy and practice resulting from SB 1578 (87th Leg. Session).

The bill analysis for SB 1758 includes a statement that the intent is to "seek to better ensure that individuals against whom a protective order is sought are afforded the same rights to provide medical determinations/testimony in court as DFPS" and it "prohibits removal based solely on the opinion of a medical professional under contract with DFPS."[104] Publicly available, free or low-cost training for all child welfare professionals can help to ensure professionals are aware of the legal requirements. A few main points of the training should include how DFPS uses the FACN, the limitations of the FACN, the scope of its reach, what the exchange of information between DFPS and the FACN looks like, what DFPS does with that information, and how it is then shared with the legal professionals and parents.

Data and Information Sharing

Listening Session and Round Table participants acknowledged that data collection and information sharing are each integral components to the child welfare system. DFPS currently produces an interactive database that is publicly shared on their website.[105] The contract between DFPS and the FACN requires a monthly progress report on the activities of the FACN the month prior including the number of referrals received, type of case, and number of written assessments provided, along with ten other areas of statistics.[106] These existing processes can be supplemented to support better outcomes for children and families.

Establish uniform data collection and analysis practices, including collecting information by FACN case type.

Currently DFPS and FACN do not have a system where data are exchanged and calculated automatically, all information shared must be done at the case level. As a result, this information is not easily shareable on the DFPS website.

It is difficult to identify practices in need of improvement or trends in cases involving FACN without more specificity in the data fields. Since multiple fact scenarios could result in a referral to the FACN, the data should be disaggregated by case type to encourage a more robust data analysis.

An area for improvement identified at the Round Table is to make these data more easily accessible to the public and easier to review for trends. However, DFPS may need to contract with a third-party vendor to help capture and analyze these data. A third-party vendor will require additional funding and appropriations as this is not currently in the DFPS budget. DFPS and the Children's Commission are open to holding additional discussions on the data collection and best practices of obtaining, analyzing, and sharing this information.

Support case management continuity and coordinated transfers of cases including increasing communication between the FACN Specialists, DFPS, and families.

Although one CPI caseworker is assigned to an investigation, a case may change hands due to a number of reasons possibly related to the complexity of the case, supervisor involvement, a worker becoming unexpectedly unavailable, transfer of a case due to jurisdictional issues, when a case involves a legal out-of-home placement, and/or the eventual transfer to a conservatorship caseworker within CPS. Similarly, a child may be seen at multiple hospitals or have multiple doctor visits, and unless these medical providers are within the same hospital system, medical records do not transfer easily and may not be accessible.

Parents and attorneys both expressed frustration at the Round Table with their ability to timely obtain medical records.

It is critical for child welfare, legal, and medical professionals to communicate with one another and share relevant information in a timely manner. By exploring ways to increase information sharing, DFPS, medical specialists, and families can better access the vital knowledge that each hold. Some possibilities to explore include inviting medical specialists to the DFPS-hosted Family Team Meetings, inviting parents and DFPS to medical consultations, or setting up a specific meeting where all parties can discuss the child's medical care, condition, and treatment.

System Improvement

During the evaluation of the use of the FACN network, recommendations arose that would benefit the child welfare community as a whole. While the charge of Senate Bill 1578 was to evaluate and make recommendations for the use of the network, these broader concerns about the child welfare system in general should be taken into account. While the recommendations below relate to all child welfare cases, specialized information and assistance would undoubtedly strengthen these efforts in complex medical cases.

Expand availability of mandated reporter training.

The Texas Family Code requires any person who has reasonable 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 immediately make a report to the statewide hotline; this is also known as the mandated reporter statute.[107] A professional who has reason to believe a child has been abused or neglected and knowingly fails to make a report may be liable for a Class A misdemeanor.[108] During the Round Table, it was identified that all professionals could benefit from additional mandated reporter training, as there may be some uncertainty around what a "reasonable cause to believe" encompasses.

During Family Team Meetings with DFPS, ensure that a decision maker is present so families can leave with a plan.

As discussed above, DFPS generally utilizes a Family Team Meeting before a child may be removed from their home. These meetings enable DFPS to provide a quick, family-involved response to concerns about the child's safety or placement and achieve positive results for the child during the earliest stages of DFPS interaction with the family.[109] Feedback from the Round Table revealed that sometimes a supervisor from DFPS or person with authority to make decisions about a case is not present at these meetings. The lack of a supervisor presence can cause a delay in a case. For example, a caseworker often does not have the authority to authorize placements or expand/restrict visitation without first staffing the case with their supervisor.

Provide a climate where children and families are served in a trauma-informed manner.

DFPS staff receive training on "[t]he need to address trauma [as] an important component of effective service delivery."[110] DFPS currently offers trauma-informed training "to assist families, caregivers, and other social service providers in fostering greater understanding of trauma-informed care and child traumatic stress."[111] The Children's Commission supports the Statewide Collaborative on Trauma-Informed Care that helped create the *Building a Trauma-Informed Child Welfare System: A Blueprint*[112] and the TraumaInformedTexas.com website. Incorporating a trauma-informed approach in all child welfare cases, including cases involving the FACN, is recommended.

Encourage jurisdictions to establish pre-petition legal representation programs.

Quality legal representation can help guide a family through the often confusing and sometimes complicated process of a DFPS investigation. During the Listening Session, parents reported they did not know when they should have consulted with an attorney, but all reported once they did, the attorney was able to provide much needed guidance and help. Similarly, pursuant to House Bill 567 (87th Leg. Session), once DFPS files a petition requesting required participation in services, the court must appoint an attorney to represent the child and parent.[113] This is a shift from the appointment of an attorney for a parent and child only after DFPS files a petition requesting termination or seeking conservatorship of a child, if the parent is found unable to afford the costs of court and appears in opposition of DFPS' request.[114] While having attorney representation at a required participation in services will be beneficial to a fair and just court process, pre-petition legal representation may be able to divert many investigations from escalating to required participation or removal.

During the Listening Session and Round Table, parents indicated that at the start of their DFPS investigation, they had no reason to distrust DFPS and complied with requests during the investigation. As the process continued, they struggled with understanding what was happening, what their rights were, and what actions they could take against DFPS. During a DFPS investigation, circumstances can change very quickly from the time an investigation is launched to when a petition is filed. This time period is vital to a family and the sooner they know their rights and can rely on an attorney to help guide them; the more likely successful outcomes can be achieved by all involved. The need for pre-petition legal representation is not unique to the FACN. Early representation is likely to benefit all families who encounter DFPS.

Explore state, regional or local programs that offer support through parent advocates, mentors, or other support programs for parents going through the child welfare process.

Being involved with DFPS when facing child abuse or neglect allegations can be a confusing and scary period for a family. Additional guidance and support can be offered through a parent mentor or other support program. Parent advocacy groups can help promote the safety, well-being, and permanency of families by empowering parents to be engaged.[115]

Currently, the Texas Legal Services Center operates the Family Helpline where lawyers with DFPS experience are available to answer questions which parents or families have concerning the DFPS process.[116] Additionally, DFPS with the help of the statewide Parent Collaboration Group provides support to parents through local Parent Support Groups that provide information to parents currently receiving DFPS services and which a liaison from DFPS attends to help explain the DFPS process.[117] Each of the 11 regions of Texas have one parent support group, with most groups meeting one to two times a month.[118] Beyond these resources, there is not currently a statewide parent mentorship program in Texas.

Any statewide, regional, or local program that is developed should operate independently of DFPS. Families should be allowed to choose and work with an advocate, mentor, program, etc. and participation should be voluntary. State, regional, or local mentorship or support programs for parents would be beneficial but would likely require additional funding. As noted above, this is a broad recommendation that could benefit parents in all child welfare cases but parents involved in a complex medical case may require specialized expertise to navigate these systems.

Identify opportunities to increase parental access to experts.

At the Listening Session and the Round Table, parents identified a financial barrier to being able to hire an expert. A parent who is found by the court to be unable to pay costs may have their attorney petition the court to authorize the payment for an expert. However, some parents may be able to afford counsel but lack adequate funds to hire an expert. Additional funding for expanded parental access to medical experts should be explored so that parents have the opportunity to present evidence supporting their position. This challenge is not unique to complex medical cases, but the likelihood of expert testimony may be greater in these cases.

Conclusion

The FACN is a resource that is designed to help DFPS receive input from medical specialists on whether a child's condition is related to abuse or neglect. SB 1578 required DFPS and the Children's Commission to evaluate the department's use of the FACN and develop joint recommendations for improvement. The Listening Session and Round Table brought together a diverse group of people including medical professionals, child welfare professionals and advocates, legal representation, and parents to have a balanced discussion around this complicated topic. The ideas generated and recommendations laid out in this report are intended to spur positive changes and encourage increased transparency. Additional steps and support for implementation of the recommendations made in this report will require a similarly balanced approach. Through collaborative efforts, the FACN can continue to improve and meet the needs and goals that are set out for it to accomplish.

Appendices

Appendix A: Participation Lists - Listening Session and Round Table

Appendix B: Forensic Assessment Center Network Evaluation (Apr. 2022)

Appendix C: DFPS-FACN Interagency Contract FY 2020-2024

Endnotes

1. In this report, the term "complex medical cases" refers to cases that mimic child abuse or neglect which include, but are not limited to, physical abuse or medical neglect by the parent (also referred to as Munchausen's syndrome by proxy). The term is used throughout the report in direct reference to DFPS investigations with referrals to the Forensic Assessment Center Network.
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5. Tex. Fam. Code § 266.003.
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11. *Id*. at article 1.4.
12. *Id*. at article 1.4.5.
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19. DFPS, Child Protective Services Handbook § 2360 (Feb. 2015), https://www.dfps.state.tx.us/handbooks/CPS/Files/CPS_pg_2200.asp#CPS_2360 (last visited August 25, 2022).
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22. *Id.* at article 1.6.1.
23. *Id.* at article 2.1.4.1.
24. *Id.* at article 2.1.4.2.
25. *Id.* at article 1.6.3.
26. *Id.* at article 2.1.4.3.
27. *See* FACN, Consultations, https://www.facntx.org/Consultations (last visited August 25, 2022).
28. *See* DFPS-FACN Interagency Contract FY 2020-2024 at articles 2.1 - 2.1.5.
29. *Id.* at article 1.7.
30. *Id.* at article 2.1.4.4.
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[73] DFPS, Child Protective Services Handbook § 1121 (Sept. 2015), https://www.dfps.state.tx.us/handbooks/CPS/Files/CPS_pg_1120.asp#CPS_1121 (last visited August 25, 2022).
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96 Tex. Fam. Code § 262.102(a).
97 Tex. Fam. Code § 262.102(b-1).
98 Children's Commission, Tool Kit for Attorneys Representing the Texas Department of Family and Protective Services in Child Protection Cases (Apr. 2018), http://texaschildrenscommission.gov/media/83756/toolkit-for-attorneys-representing-the-texas-dfps-in-child-protection-cases-online-version.pdf (last visited August 25, 2022).
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103 DFPS, *Forensic Assessment Center Network Evaluation* (Apr. 2022).
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113 Tex. Fam. Code at § 264.203(g-h).
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Appendix A

Forensic Assessment Center Network
Listening Session
Participant List*

April 4, 2022

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Tiffany Edwards
Executive Assistant

Jocelyn Fowler
Staff Attorney

**Name, title, and affiliation reflect participation at the time of the event. Please note that while there was some support for each recommendation, this report does not represent unanimous consensus for all participants. Rather, this report summarizes the key takeaways and themes discussed in both the Listening Session and Round Table.*

Forensic Assessment Center Network
Round Table Discussion
Participant List*

April 11, 2022

Moderator

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Texas Public Policy Foundation

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Associate Judge
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TX Dept. of Family & Protective Services

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Health Policy Associate
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Hon. Piper McCraw
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469th District Court

**Name, title, and affiliation reflect participation at the time of the event. Please note that while there was some support for each recommendation, this report does not represent unanimous consensus for all participants. Rather, this report summarizes the key takeaways and themes discussed in both the Listening Session and Round Table.*

Forensic Assessment Center Network
Round Table Discussion
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**Name, title, and affiliation reflect participation at the time of the event. Please note that while there was some support for each recommendation, this report does not represent unanimous consensus for all participants. Rather, this report summarizes the key takeaways and themes discussed in both the Listening Session and Round Table.*

Forensic Assessment Center Network
Round Table Discussion
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Jocelyn Fowler
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Skylar Holland
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**Name, title, and affiliation reflect participation at the time of the event. Please note that while there was some support for each recommendation, this report does not represent unanimous consensus for all participants. Rather, this report summarizes the key takeaways and themes discussed in both the Listening Session and Round Table.*

Appendix B

TEXAS
Department of Family
and Protective Services

Forensic Assessment Center Network

Evaluation

April 2022

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Background

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 is available for Department of Family and Protective Services (DFPS) staff as valuable resources which provide expert opinions from child abuse pediatrician's on whether a child's injuries or condition is abuse or neglect related.

As a result of these requirements, effective September 1, 2005 and 2009, FACN and MEDCARES Pediatric Centers of Excellence, respectively were approved for appropriation.

FACN: Sec. 266.003. MEDICAL SERVICES FOR CHILD ABUSE AND NEGLECT VICTIMS:

> (a) The [Health and Human Services] commission shall collaborate with health care and child welfare professionals to design a comprehensive, cost-effective medical services delivery model, either directly or by contract, to meet the needs of children served by the department. The medical services delivery model must include:
>
> > (1) the designation of health care facilities with expertise in the forensic assessment, diagnosis, and treatment of child abuse and neglect as pediatric centers of excellence;
> > (2) a statewide telemedicine system to link department investigators and caseworkers with pediatric centers of excellence or other medical experts for consultation;

MEDCARES: Sec. 1001.151. TEXAS MEDICAL CHILD ABUSE RESOURCES AND EDUCATION SYSTEM GRANT PROGRAM:

> *(a)* The department shall establish the Texas Medical Child Abuse Resources and Education System (MEDCARES) grant program to award grants for the purpose of developing and supporting regional programs to improve the assessment, diagnosis, and treatment of child abuse and neglect.

87th Legislative Requirements

Senate Bill 1578, 87th Legislative Session (2021), amends the Texas Family Code (TFC) 261.3017, regarding abuse/neglect investigation consultations involving possible bone or tissue related conditions by the Forensic Assessment Center Network (FACN).

The MEDCARES grant program was not funded this legislative session.

The Texas Family Code, as amended by the bill, prohibits DFPS from using a health care provider from FACN or another healthcare system for forensic assessment services on a child abuse/neglect investigation if that provider is the reporter on the case.

The Texas Family Code (TFC) no longer allows FACN to make referrals for specialty consultations when DFPS or FACN determine that a child requires a specialty consultation. TFC is amended to permit the following persons to recommend specialty consultation referrals, in addition to DFPS:

- The child's primary care physician or other health care provider that provided health care or treatment or otherwise evaluated the child;
- The child's parent/legal guardian; OR
- The parent/legal guardian's attorney.

The law does not prohibit the parent/legal guardian from obtaining a second opinion from a physician or other health care provider of their choice. DFPS is required to accept and consider the alternative opinion when making a

determination regarding abuse or neglect of the child. DFPS documents the analysis and determinations made by the second opinion in their case management system.

The bill alters DFPS's ability to remove a child under exigent circumstances, based solely on the opinion of a medical professional under contract with DFPS who did not conduct a physical examination of the child, and broadens the medial opinions a court must consider in making a child abuse or neglect determination.

In addition, this bill requires DFPS to evaluate its use of FACN with assistance from The Children's Commission of Texas (CCTX). CCTX will host a diverse round table meeting to discuss DFPS's use of the FACN network with external stakeholders, FACN, attorneys, and DFPS staff. DFPS will provide information on the FACN program, related policy, practice, current FACN contract, current utilization, historical background, and the changes related to legislative mandates.

After the round table meeting, CCTX will compile recommendations on the FACN program and submit these recommendations in a final report to the legislature. DFPS will provide educational information for the report and include any additional recommendations outside of those provided by CCTX.

Forensic Assessment Center Network

FACN is a coordinated group of physicians from six medical schools in Texas who are experts in child abuse and neglect. Child Abuse Pediatricians (CAPs) are highly-trained physicians available for consultation to children and adolescents with suspected child abuse and neglect injuries. FACN physicians provide written consultations for the cases they review, including their expert medical opinions of whether abuse or neglect occurred. The FACN provides consultations for several programs within DFPS including Child Protective

Investigations (CPI), Child Protective Services (CPS), Child Care Investigations (CCI), and Adult Protective Services (APS).

The FACN is primarily used by CPI caseworkers in cases of suspected child abuse and neglect. FACN physicians also provide ongoing training to CPI and CPS workers about issues surrounding child abuse and neglect. DFPS staff are encouraged to obtain timely medical consultations when necessary, as well as documenting and applying the expert opinions to case decisions.

The goal of the network is to make medical professionals, with expertise in child abuse and neglect, more readily available to advise caseworkers. This network fills in gaps when no local pediatric abuse and neglect experts are available. The network helps DFPS staff make decisions about child safety during investigations.

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 Forensic Assessment Center Network (FACN) is a valuable resource through which DFPS staff can obtain expert medical opinions to increase the accuracy of investigation conclusions.

FACN Contract

DFPS has a contract with The University of Texas Health Science Center at Houston to create resources that improve the Child Protective Investigations (CPI), Child Protective Services (CPS), and the Child Care Investigations (CCI) Divisions. This allows access to medical professionals that provide expertise in the diagnosis of child abuse/neglect. Access to such expertise is intended to support DFPS staff in making decisions relating to the presence/absence of child abuse/neglect during CPI/CCI investigations and CPS cases.

The goals of the FACN contract are to provide the following:

- Statewide access to forensic medical consultation services to DFPS staff
- Expert testimony regarding child abuse/neglect diagnoses in DFPS cases
- Ongoing statewide training on the medical aspects of abuse/neglect to DFPS staff and others identified by DFPS

The FACN contract administrators, within DFPS, have granted eligible FACN and DFPS staff access to the telemedicine system. The contract administrators use various campaigns to increase awareness and familiarity of FACN for DFPS staff.

Training for DFPS staff CPI/CPS & CCI caseworkers

The FACN contract stipulates that FACN develops and provides training at least once a year for each region. FACN currently provides training on an as-requested basis to each region in DFPS. The FACN physicians and providers can present on the following topics on child maltreatment but not limited to:

Anal/ genital trauma	Fracture
Asphyxiation/ strangulation	Ingestion/ poisoning
Bruising/ petechiae (except anogenital)	Intra-abdominal trauma
Burn	Intracranial injury
Child pornography	Laceration/abrasion (except anogenital)

Dental caries or abscess	Malnutrition/ starvation/ failure to thrive
Drowning/ near-drowning	Report of sexual contact
Exposure to illicit drug or illicit drug environment	Retinal hemorrhages
Face, intra-oral or scalp injury	Scar (except anogenital)
Factitious disorder by proxy	Sexually transmitted infection

FACN doctors provide guidance and insight with ongoing training throughout the regions. These trainings can be tailored to the audience's level of knowledge and experience. Additional topics may also be requested based on regional needs.

Additional FACN Trainings available are listed below under **Appendix B**.

FACN Utilization

In FY2020, 7041 individuals[i] (the majority of whom were children), had a "visit date[ii]"with FACN. Of those, 6,967 individuals matched to 6,496 DFPS stages in FY2020.

	Number of Stages referred to FACN
Child Protective Investigations/Services stages	6,127
Other:[iii]	357[iv]

Of the 6,496 stages and 6,967 children noted above, 5,368 investigations and 5,797 children were involved with Child Protective Investigations. Not all of the matched stages involved children as victims for a variety of reasons[v].

FACN Physicians are available twenty-four hours-a-day, seven days-a-week to provide consultation on acute cases, and during regular business hours to review non-acute cases. FACN physicians identify that at least one issue for a child is "substantial" or "concerning" 12% and 41% of the time respectively during a Child Protective Investigation. Non-specific findings[vi], which could be

due to abuse/neglect, or could also be due to natural causes are identified 22% of the time, while other less concerning findings (including no evidence of maltreatment) are identified 26% of the time.

Overall Disposition for this child

Most Concerning Determination During Stage for this child[vii]	Reason to Believe (RTB)	Other than Reason to Believe (RTB)
Substantial	87% (581)	13% (90)
Concerning	62% (1,507)	38% (913)
Nonspecific	15% (189)	85% (1,098)
Other	18% (265)	82% (1,216)
Total	43% (2,542)	57% (3,317)

Of the 5,368 investigations identified above, we see when an FACN physician identifies that concerns are "substantial", children involved in the investigation are removed at a rate of 34%. However, even when FACN physicians register a substantial level of concern for maltreatment, the likelihood the investigation will be referred for Family Based Safety Services (FBSS) or closed outright is at a higher rate of 66%.

Case Outcome count of cases[viii]

Most Concerning Determination During Stage for any child	Removal	Family Preservation	Close
Substantial	34% (210)	28% (175)	38% (239)
Concerning	12% (260)	20% (454)	68% (1518)
Nonspecific	4% (52)	12% (147)	84% (1022)
Other	5% (61)	11% (147)	84% (1083)
Grand Total	**11% (583)**	**17% (923)**	**72% (3862)**

Flow Charts Presentation

The FACN provides regional case consultation services to aid caseworkers in the assessments made regarding the abuse or neglect of children. Any specific

case consultation or written assessment must result in a formal referral to FACN which will then result in a written determination.

Type of Determinations made by FACN:

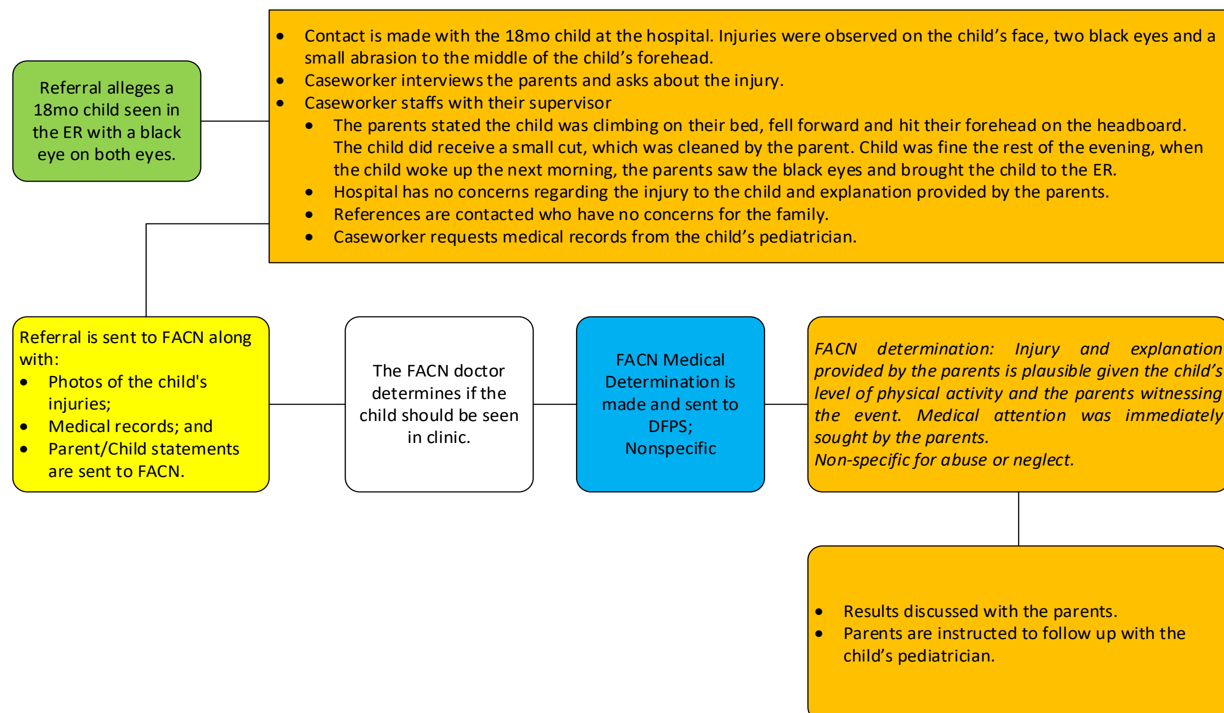
Non-specific - may result from abuse or neglect, but accidental / natural explanations are also possible

Concerning – There is concern for maltreatment based on the medical evidence and information provided

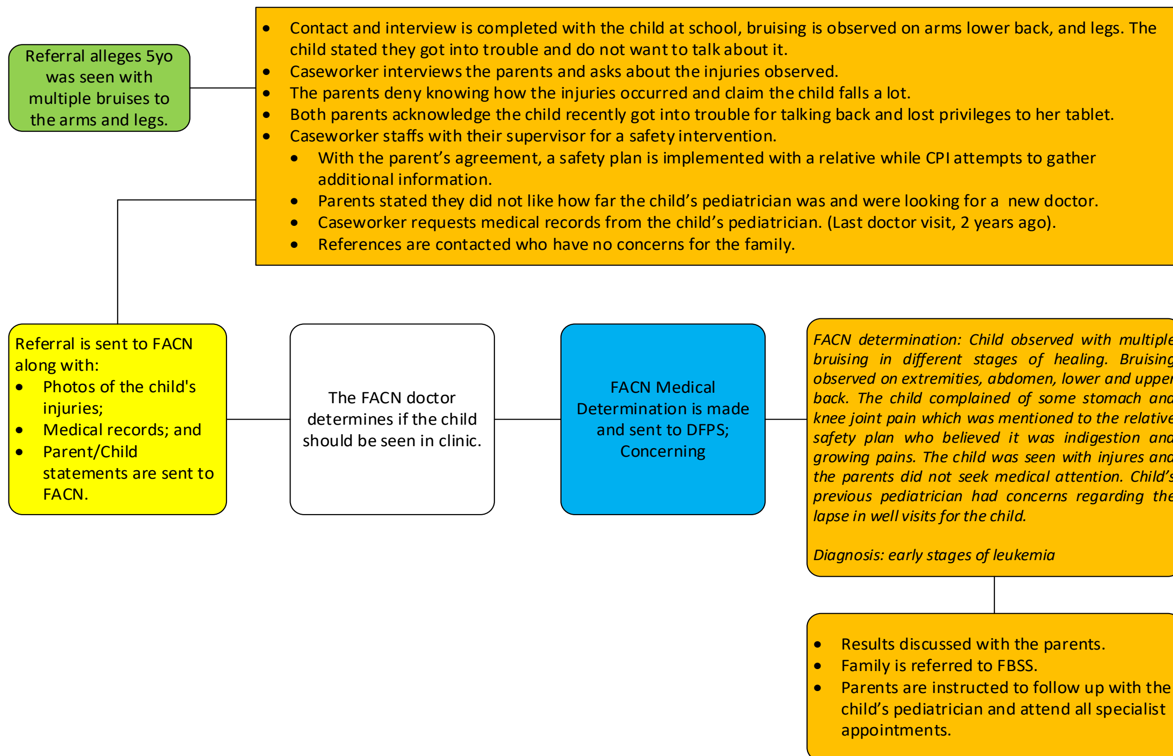
Substantial – Based on the medical evidence and information provided for the case, the finding(s) cannot be reasonably explained by anything other than maltreatment (Physical abuse, Sexual abuse, Emotional abuse, Physical neglect, Supervisory neglect, Medical neglect, Munchausen's Syndrome by proxy (or other factitious disorder)

The following are examples of the normal flow of a referral made from DFPS to FACN.

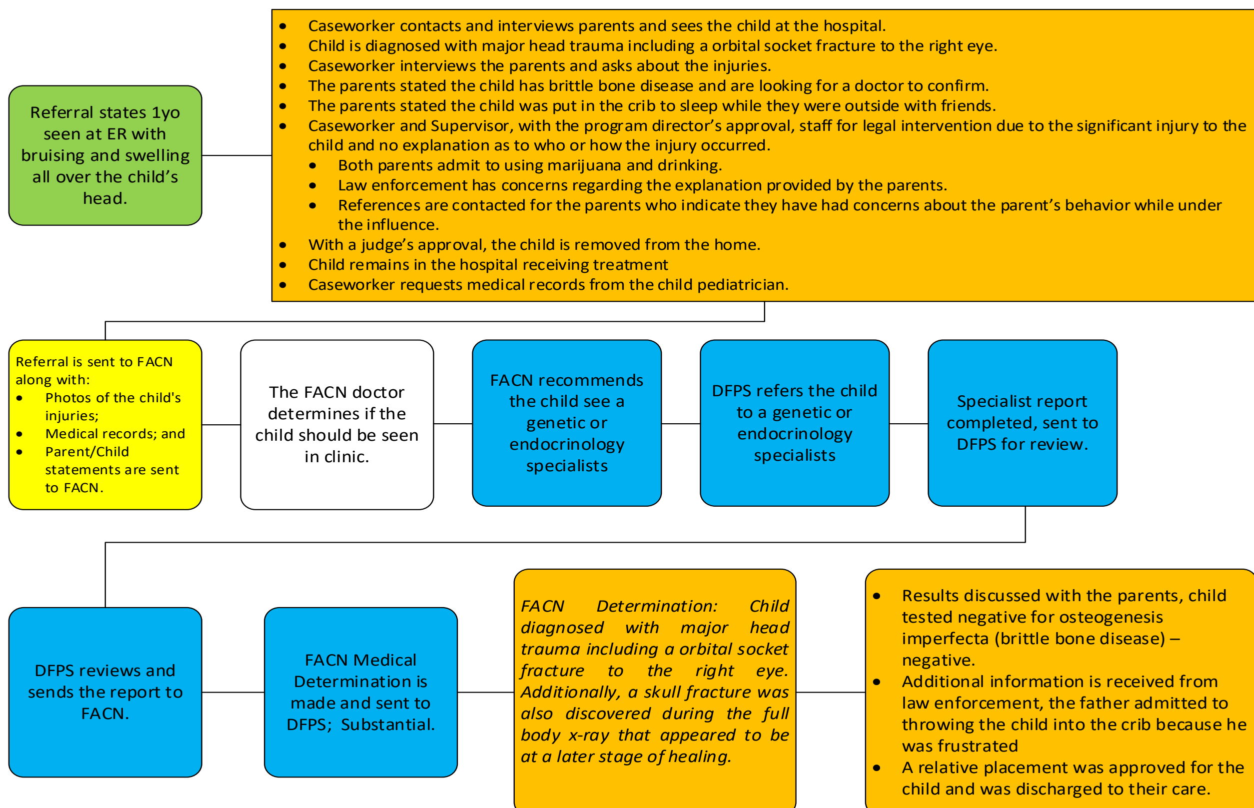
Non-Specific



Concerning



Substantial



DFPS Policy

Senate Bill 1578 updated the Texas Family Code, which then required DFPS to update internal policy. The following policies were updated to bring DFPS policy in line with current law.

See Appendix A

CPI/CPS Policy

2232 Making a Referral to the Forensic Assessment Center Network

2232.1 When and When Not to Make a Referral to FACN

2232.2 Specialty Consultations

2232.3 Documenting Results from FACN Consultations

2232.4 Requesting an Extension While Awaiting FACN Response

2232.5 Removing a Child Based on FACN Consult

5412.11 Exigent Circumstances and Imminent Danger

CCI Policy

4323.1 Obtaining Medical Records

5320 Investigation of a Child's Near Fatality

Appendix A

DFPS Policy

CPS/CPI Policy

Policy has been updated as required by the passing of the legislation. **2232 Making a Referral to the Forensic Assessment Center Network**

DFPS is required by statute to contract with Texas medical schools and hospitals that comprise the Forensic Assessment Center Network (FACN). FACN includes physicians who specialize in 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.

The network provides all of the following:

- Case consultation.
- Forensic assessment (including medical evaluations).
- Training about issues surrounding child abuse and neglect.
- The following types of testimony for court proceedings:
  - In cases where FACN physically evaluated a child, the FACN physician may testify as a medical witness.
  - In cases where FACN only reviews records, the FACN physician may testify as an expert witness.

DFPS staff in the following divisions have access to the FACN:

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

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

When FACN Reports Abuse or Neglect

If an FACN health care practitioner makes a report of abuse or neglect of a child, that health care practitioner cannot be used to also conduct

a forensic assessment on the same child. The caseworker may still interview the original health care practitioner as a principal or collateral.

If an FACN health care practitioner makes a report, this does not disqualify other FACN health care practitioners from conducting the forensic assessment.

For definition of *health care practitioner*, see the CPS Handbook's Definitions of Terms.

2232.1 When and When Not to Make a Referral to FACN

Caseworkers may make a referral to FACN when they need additional clarification on abuse or neglect cases to address child safety decisions or to ask general ongoing medical questions. A caseworker does not need approval from any of the following people to request an FACN consult:

- The child's parent.
- The attorney representing the child or parent.
- The child's primary care physician or other health care practitioner.

When CPI Must Make a Referral to FACN

Caseworkers must make a referral to FACN in the following circumstances:

- There does not appear to be any reasonable explanation for a child's injury or the explanation is not consistent with the injury.
- A child requires an in-person forensic assessment examination.
- The caseworker needs assistance to determine whether abuse or neglect 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 syndrome).
- The caseworker has a question about abuse or neglect that a medical professional may be able to clarify.

- A child younger than 11 years old has a sexually transmitted disease (STD), and there is not a preponderance of evidence that abuse led to the STD. See 2360 Medical Vulnerability.
- Near-fatality cases when the treating physician is not a child abuse pediatrician.

Using FACN in this way is not the same as a specialty consultation. See 2232.2 Specialty Consultations.

Making the Referral to FACN

Emergency
The caseworker must immediately contact the FACN by phone (1-888-TX4-FACN). This contact is available 24 hours a day and seven days a week for acute cases. See the FACN Resource Guide*PDF Document*.

Non-Emergency
If the caseworker and supervisor decide to make a referral to FACN for a non-acute case, the caseworker must enter the basic referral information into the FACN system*External Link* (www.facntx.org*External Link*) or by phone (1-888-TX4-FACN) within two business days during regular business hours.

When FACN Indicates Abuse or Neglect

The FACN physicians' input must be taken into consideration in determining abuse or neglect of a child.

If FACN indicates that abuse or neglect occurred, the caseworker must immediately meet with the supervisor and program director to ensure the appropriate safety intervention is taken to keep the child safe.

When there are differing opinions between medical professionals as to whether abuse or neglect occurred, the caseworker must do the following:

- First, establish safety of the child.
- After establishing the safety of the child, staff with the caseworker's chain of command and legal to determine next steps.

See FACN Resource Guide.

When Not to Make a Referral to FACN

A caseworker must not refer a child in DFPS conservatorship to FACN for standard medical care, including direct examinations or medication services.

Caseworkers generally do not need to make a referral to FACN when both of the following criteria are met:

- The child has already been seen by a local physician who is certified as a child abuse and neglect specialist.
- There are no additional questions or concerns.

2232.2 Specialty Consultations

FACN can recommend a specialty consultation, but FACN may not make a referral for the specialty consultations. If FACN recommends a specialty consultation, DFPS obtains the information from the child's digital file in FACN. DFPS reviews the recommendation and determines if a referral is needed based on all the information in the investigation.

A specialty consultation referral may be requested by any of the following:

- The primary care physician or other health care practitioner that provided health care or treatment or otherwise evaluated the child.
- The child's parent or legal guardian.
- The parent or legal guardian's attorney.

DFPS must refer a case for a specialty consultation in cases of abuse and neglect in conjunction with the diagnoses below:

- Rickets.
- Ehlers-Danlos Syndrome.
- Osteogenesis-imperfecta.
- Vitamin D deficiency.
- Other medical conditions that mimic child maltreatment or increase the risk of misdiagnosis of child maltreatment.

The specialty consultation must be completed by a physician who is licensed in Texas and board-certified in the field relevant to diagnosing and treating the conditions described. The physician must not be the original reporter of suspected abuse or neglect.

If DFPS makes the determination to refer a child for a specialty consultation, DFPS must work with the family to provide them with the referral.

Before making the referral for a specialty consultation, the caseworker must provide written notice of the name, contact information, and credentials of the specialist to one of the following people:

- The child's parent.
- The attorney representing the child or parent.

The child's parent, or the attorney representing the child or parent, may object to the referral and request an alternative specialist. The caseworker and family collaborate to select an acceptable specialist. However, the caseworker may refer the child to a specialist over the objection of the family. The caseworker must first get approval from the supervisor to refer the child to a specialist over the objection of the family.

The family is not prohibited from seeking an alternative opinion at their own expense. If the family seeks a second medical opinion, the caseworker must accept and consider this alternative opinion and document it in the contact narrative in IMPACT.

2232.3 Documenting Results from FACN Consultations

The caseworker must document in the FACN contact narrative in IMPACT:

- All information received from FACN related to child safety.
- All results from the consultation with the FACN physicians including specialty consultations.

The caseworker must document in a contact narrative any case staffing with the supervisor and program director regarding:

- The results of the medical consultations.
- Any differing medical opinions between consulting medical professionals.

The caseworker must upload all medical records and any other documentation provided by FACN or a medical provider into OneCase.

2232.4 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. If an extension is needed, the caseworker uses the extension code *Medical Records*. See 2291.6 Extension Request.

2232.5 Removing a Child Based on FACN Consult

Exigent removal of a child may not be based solely on the opinion of a medical professional under contract with DFPS who did not conduct a physical examination of the child. However, if both the physician who conducted the physical examination and the FACN physician agree that abuse or neglect occurred, then both opinions may be used for an emergency removal.

5412.11 Exigent Circumstances and Imminent Danger

Exigent circumstances mean that, based on the totality of the circumstances, there is reasonable cause to believe that the child is in imminent danger of physical or sexual harm if the child remains in the home, and the situation requires immediate action.

Imminent danger means there is an immediate threat to the child's physical health or safety, or that sexual abuse is about to occur to the child. A child is in imminent danger if the caseworker has reason to believe that either of the following is true:

- The child's life or limb is in immediate jeopardy.
- Physical abuse is about to occur.
- Sexual abuse is about to occur.

A caseworker only considers an emergency removal before obtaining a court order when the child is in imminent danger. When determining whether the danger is truly imminent and requires immediate action, the caseworker looks at various factors, including, but not limited to, those described in the following table.

Factors to Consider	Specific Considerations
Is there time to obtain a court order?	After the caseworker and supervisor have weighed everything they know about the immediate danger to the child, they consider whether the time it takes to obtain a court order would place the child in imminent danger. If the child would be placed in imminent danger, then an emergency removal before obtaining a court order is appropriate. **Consider All Circumstances** The caseworker and supervisor must consider all of the circumstances in the case. The fact that the courthouse is closed does not automatically support a

	removal before obtaining a court order. The fact that the courthouse is open does not automatically require that a court order be obtained before the removal.
What is the nature of the abuse or neglect?	The caseworker and the supervisor must consider the severity, duration, and frequency of the abuse, based on the evidence for one or more of the following: • The extent of harm or potential harm. • How recently the abuse occurred. • Whether the abuse was committed against multiple children. • Whether there is a pattern of abuse or the abuse was an isolated incident. • Whether there is a condition that requires immediate medical attention. • Whether the parents have an inability or incapacity to meet the child's *immediate* needs. **In the Case of Neglect** When there are only allegations of neglect, the decision of whether to remove before obtaining a court order must be based on a determination of whether the child is in imminent danger of abuse or serious harm, based on the information discovered in the initial investigation, regardless of whether the imminent danger is from physical abuse, sexual abuse, or another type of abuse or neglect. This could include but is not limited to: • Serious harm because of dangerous home conditions. • Parents being under the influence of a controlled substance and the child being unable to protect himself or herself because of age or some other factor. • The parents being arrested or unable to be located, with no appropriate relatives or fictive kin available to care for the child.
How strong is the evidence supporting the allegations?	The caseworker and the supervisor consider whether the allegations are reliable in light of the strength of the evidence supporting them. Such considerations include: • The source of the allegations. • Whether the allegations have been corroborated. • All other evidence the caseworker can gather before making a determination about an emergency removal, such as: • Information available in IMPACT about the family. • Other open stages of service and information from other caseworkers. • Information from law enforcement and other professionals, including medical professionals. • Any additional information that can be gathered while protecting the child's safety. **Families with a History of DFPS Involvement** A history of DFPS involvement with the family is not enough, in and of itself, to support a conclusion that the danger to the child is immediate. The question is not whether DFPS has been involved, but whether DFPS's involvement supports a conclusion that the child is in danger *now*. **Cases Involving Assessments by the Forensic Assessment Center Network (FACN)**

	An exigent removal of a child may not be based solely on the opinion of a medical professional under contract with DFPS who did not conduct a physical examination of the child. However, if both the physician who conducted the physical examination and the FACN physician agree that abuse or neglect occurred, then the use of both opinions may support an exigent removal. If the examining physician is a FACN physician, the forensic assessment must be conducted by a different FACN physician or another physician trained in diagnosing abuse and neglect. See 2232 Making a Referral to the Forensic Assessment Center Network.
Is there a risk that the parent will flee with the child?	The caseworker must consider whether there are objective indications that the parent will flee with the child, such as: • A threat made by the parent to that effect. • A prior DFPS history of the parent fleeing. • A parent who is visiting Texas, rather than living in Texas.
Is there a less extreme solution to the problem?	DFPS must make reasonable efforts to prevent removal; that is, efforts that are consistent with the circumstances and provide for the child's safety. See Texas Family Code §262.101 *External Link*. When removal is being considered, the caseworker must attempt to implement a solution to the family's problems that is less extreme than an involuntary removal, as long as the child's safety can be assured. Possible solutions may include: • A safety plan that would enable the child to remain in the home while still protecting the child. This may include removing the alleged perpetrator from the home. • Providing family-based safety services.
What harm to the child could result from removal?	When considering removal's effects on the child, the safety of the child must always take priority.

CCI Policy

4323.1 Obtaining Medical Records

The investigator requests that the parent provide a medical release and requests the medical records during an investigation when the allegations being investigated include any of the following:

- Injuries requiring medical treatment.
- Serious physical abuse.
- Medical neglect.
- Physical neglect.
- Sexual abuse, if the child received an exam by a sexual assault nurse examiner.
- A fatality.
- A near fatality.

If a child in DFPS conservatorship receives medical treatment or dies, the investigator works with the child's caseworker to obtain the records.

If the child is not seen by a medical professional, the investigator must consult with a medical professional to obtain a professional opinion of the child's medical condition.

The investigator may need to obtain the following types of medical records, depending on the allegations being investigated:

- Records from emergency medical services.
- Emergency room and other hospital records.
- Records from the child's primary care physician.
- Records from a specialist who provides care or treatment to a child.
- Records from a sexual assault nurse examiner.
- Autopsy report and other related records from the medical examiner, if the child is deceased.
- Star Health records.

5320 Investigation of a Child's Near Fatality

Any time a child suffers a near fatality while in care, CCI investigates to determine whether abuse or neglect was a factor in the child's near fatality.

When the investigation of a child's near fatality occurs in a residential child care facility, the investigator must do the following:

- Add the facility's administrator as an alleged perpetrator of neglectful supervision.
- Determine if there is a preponderance of evidence that the administrator engaged in a negligent act or omission that contributed to the near fatality.

If the treating physician is not a child abuse pediatrician, the investigator may request consultation with a Forensic Assessment Center Network (FACN) physician in order to do the following:

- Assign a severity level of *Near Fatal*.
- Determine whether the injury or medical condition was a result of abuse or neglect.

Appendix B

Additional FACN TRAINING TOPICS

Physical Abuse

- Recognize symptoms of intracranial injury in a young child
- Recognize head trauma patterns that may indicate inflicted trauma
- Understand indications for obtaining a skeletal survey
- Recognize fracture patterns that may indicate inflicted trauma
- Be able to differentiate common skin injury patterns indicative of abuse from other skin findings
- Recognize symptoms of intra-abdominal trauma in children

Medical Child Abuse

- Understand the preferred nomenclature for medical child abuse cases
- Recognize key features of MCA
- Recognize ways to intervene when MCA is suspected

Sexual Abuse Examinations

- Identify basic genital anatomy structures
- Explain why sexually abused children may have normal medical examinations
- Identify the characteristics of a good medical examination and report
- Recognize the significance of sexually transmitted infections
- Understand the role of DNA technology in sexual abuse investigations

Neglect

Failure to Thrive (FTT)

- Know the definition of failure to thrive
- Recognize that psychosocial factors can impact growth
- Understand normal growth patterns for infants and children
- Recognize physical and behavioral features of malnourishment
- Identify long-term sequela of malnourishment

Chronic/complex medical conditions

- Recognize that there are different forms of diabetes
- Describe the symptoms of diabetes and asthma
- Understand the potential for poor long-term outcomes and death for poorly-controlled diabetes and asthma
- Identify markers of compliance with medical therapy

- Identify strategies for encouraging compliance

Health Literacy

- Be able to define health literacy
- Be able to differentiate health literacy and medical neglect
- Recognize groups who may have low health literacy
- Discuss intervention strategies to mitigate the problem of low health literacy and prevent medical neglect

Drug Endangered Children

- Discuss how exposure to drugs and substance abuse can affect children
- Review the most common illicit drugs and substances of abuse that affect children
- Recognize signs and symptoms of acute drug exposure in children
- Discuss the appropriate use of drug testing methods and their limitations

Other

Basic child maltreatment and FACN overview

- Understand how to access your local child abuse medical expert(s)
- Know when to contact your local child abuse medical expert(s)
- Understand what information medical experts need in order to render an opinion
- Know how to navigate the FACN web system

Child Protector App Overview

- Recognize how the Child Protector app can be helpful
- Know how to use the Child Protector app

Domestic Violence (DV)

- Define DV and recognize its prevalence and risk factors
- Recognize the interface between DV and child maltreatment
- Discuss current screening practices and barriers to screening for DV
- Understand current recommendations for screening
- Know potential DV intervention strategies

Compassion fatigue for first responders

- Define compassion fatigue
- Identify signs and symptoms of compassion fatigue
- Discuss contributing factors and who is at risk
- Review practices for prevention and mitigation of compassion fatigue

Mental Health

- Describe the process of brain development in adolescents and young adults
- Recognize the development stage of adolescents and how that may affect their interaction with peers and adults
- Discuss signs of emotional and behavioral problems that may need referral
- Be able to assess parenting style and offer resources and support
- Identify how to access mental healthcare
- Be able to recognize post-partum depression and provide appropriate intervention

Trafficking

- Describe the types of human trafficking in the U.S.
- Recognize possible indicators of human trafficking
- Know how to screen and identify individuals who have been trafficked
- Be able to assess the needs of individuals who have been trafficked and deliver appropriate services

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[i] The vast majority of these individuals were children. There are a very small number of times (6 in FY2020) when the individual involved was technically an adult. In 5 of these instances the individual was a severely disabled adult. For the other instant the "visit date" provided – which is actually a "file upload" date, involved a subsequent clinic visit for a child previously seen by FACN as a child.

[ii] "Visit Date" is not always the date that a child was seen, or the date that the FACN provided feedback to DFPS about a child. Rather, it is the date they uploaded a date file to the FACN system about the interaction they had regarding the child. Many times, it is within 1-2 days of the interaction, but there are some instances where it is many months removed from the interaction. As an example, one child (who was deceased) had three "visits" – actually case consultations – recorded. Each one was >3 months after the child's death. The issue with the FACN system recording the upload date, rather than the actual visit date in a reportable way is a system limitation of the FACN database.

[iii] Includes other stages in DFPS, Child Care Licensing, Residential Care Licensing, and other.

[iv] Of the 12 remaining "Other" stages, two were purged cases whose date could not be determined, one was related to an "Information and Referral Call" about a child who was previously the alleged victim in an investigation into the child's death. Four involved the "Adult Foster Care" program, and five involved the "Adult Protective Services" program.

[v] These reasons include, but are not limited to: Contact with FACN during one of the following:

a) Investigation in which the individual is not an alleged victim, or where the investigation has not yet closed (321 individuals)
b) Substitute Care Case (274 individuals)
c) Family Preservation Case (242 individuals)
d) Alternative Response case (105 individuals)
e) Intakes in which the individual is not an alleged victim (60)
f) Other situations (6 individuals) – purged case/involvement as child on Family Reunification or Family Sub care Stage without the child being in care at the time of the visit.

Sometimes these contacts are follow-ups from the original contact which occurred during an investigation. There are also instances where the child is a sibling of a victim child, but they themselves are not identified as a victim in the investigation. Still other times, the matched case may appear odd because the "visit date" is actually a proxy date (technically the date of file upload) provided by FACN since the system was not designed in such a way as to give the actual date of contact.

[vi] Nonspecific determinations are those which may result from abuse or neglect, but accidental/natural explanations are also possible. Less concerning findings captured under the "Other" category include:

a) No evidence of maltreatment, or an explanation other than abuse or neglect is likely;
b) At risk for maltreatment;
c) Insufficient information available, therefore unable to determine whether child was abused or neglected;
d) No allegation of abuse or neglect (physician consulted for a non-maltreatment question).

[vii] Sometimes additional information changes the FACN level of concern to a higher – or a lower level. However, whether you look at the most concerning FACN level of concern during the investigation, or the most concerning FACN level of concern for the last FACN contact with a child during the investigation, these percentages do not change by more than +/- 2%

[viii] Percentages shown in the table are the number of investigations in each cell, divided by the total number of investigations for the row. i.e. Of the investigations where the most concerning determination during the stage was "Concerning", 20% ended up going to Family Preservation, since 454/(260+454+1518) = 454/2232 = 20%

Appendix C

THIS INTERAGENCY CONTRACT ("Contract") is entered into by and between the TEXAS DEPARTMENT OF FAMILY AND PROTECTIVE SERVICES ("DFPS" or "Department") AND THE UNIVERSITY OF TEXAS HEALTH SCIENCE CENTER AT HOUSTON ("UT") pursuant to the Interagency Cooperation Act, Chapter 771, Texas Government Code.

The purpose of this Contract is to create resources to improve the Child Protective Investigations (CPI), Child Protective Services (CPS) Divisions, and the Child Care Licensing (CCL) Division of DFPS access to medical professionals that have expertise in the diagnosis of child abuse or neglect. Access to such expertise is intended to support DFPS staff in making decisions relating to the presence/absence of child abuse/neglect during CPI/CPS and CCL investigations. The goals of the Contract are to provide:

- Statewide access to forensic medical consultation services to DFPS staff;
- Expert testimony regarding child abuse/neglect diagnoses in DFPS cases; and
- Ongoing statewide training on the medical aspects of abuse and neglect to DFPS staff and others identified by DFPS.

ARTICLE 1 – DEFINITIONS

The following terms will have the meanings indicated in this Article:

1.1 **Case Consultation** – The communication including verbal, written and/or electronic, between DFPS staff and FACN staff pertaining to a referral. This consultation results in a final written assessment submitted by the FACN to DFPS.

1.2 **Expert Testimony** – Testimony in court or in an administrative hearing provided by deposition, telephone, teleconferencing, or in person by a Medical Expert regarding a FACN referral or assessment.

1.3 **Forensic Medical Assessment** – The provision of medical services, which may include a history, physical examination, diagnostic testing and treatment, resulting in a determination of whether a physical injury or condition resulted from or was likely to have resulted from abuse or neglect of a child, including whether the injury was inflicted or accidental, the injury was or was not consistent with a given explanation, the condition is or is not developmentally appropriate, etc. Besides providing medical services, this assessment may also include a case consultation, written assessment, and expert testimony. DFPS is not responsible for any costs associated with the medical services provided.

1.4 **Medical Expert** – A healthcare provider who meets the following criteria:

1.4.1 Is independently licensed to diagnose and treat medical conditions in the State of Texas (e.g., nurse practitioner, physician or physician's assistant)

1.4.2 Is certified in pediatrics by a nationally recognized board;
1.4.3 Has received additional training in child abuse and neglect, beyond general pediatric training;
1.4.4 Regularly evaluates children for alleged abuse or neglect as part of his or her routine pediatric practice; and
1.4.5 Is either board-certified in Child Abuse Pediatrics by the American Board of Pediatrics (a "CAP"), or is supervised by a CAP. Supervision constitutes, at minimum, shared participation or timely review of all cases involving serious bodily injury and/or hospitalization

1.5 **Regional Case Consultation** – A meeting comprised of FACN and Regional DFPS staff, in which FACN staff are available to informally discuss case scenarios. Any specific case(s) discussed at this meeting that results in a case consultation or written assessment and has not yet been referred to FACN prior to the meeting must result in an additional referral(s) to FACN.

1.6 **Referral** – A request made by DFPS of FACN, via the web-based system or the toll free number, to request a case consultation and written assessment of a child abuse or neglect case. The assessment is usually based on a review of available records. There are three types of referrals:

1.6.1 **Routine Referral** – Any referral to FACN that is not an Emergency or Complex Referral.
1.6.2 **Emergency Referral** – Referrals that are needed quickly, as determined by DFPS. Examples include but are not limited to: a child that has suffered serious physical injury; a child that is not expected to survive; a child that is in intensive care; a child that is in immediate risk of serious physical injury or sexual abuse; or a written assessment is needed to support the removal of a child from the home; and
1.6.3 **Complex Referral** – Referrals that involve voluminous information. Examples of these cases include but are not limited to: a case involving multiple records spanning several months; or a case involving 3 or more children who have suffered serious injuries or prolonged neglect.

1.7 **Referral by Physician** - When a child is seen at a hospital or clinic by a FACN physician and the physician or his/her representative enters into the web-based system the request for a case consultation and written assessment of the child abuse or neglect case.

1.8 **Written Assessment** – The final product resulting from the FACN referral and case consultation; the provision of a medical expert opinion as to whether a physical injury or condition resulted from or was likely to have resulted from abuse or neglect of a child, including whether the injury was inflicted or accidental, the injury was or was not consistent with a given explanation, the condition is or is not developmentally appropriate, etc. .

ARTICLE 2 - SCOPE OF SERVICE

UT shall (1) provide Case Consultations and Written Assessments in response to referrals by DFPS; (2) provide Expert Testimony regarding a Forensic Medical Assessment as requested by DFPS; (3) develop and deliver training to DFPS staff; (4) maintain a peer review process for physicians; (5) submit monthly reports; and (6) provide on-going operations, maintenance, and performance improvement of the FACN web-based system. These services include:

2.1 Case Consultations:

2.1.1 Methods of Referrals: UT shall provide case consultation services by the following methods:

2.1.1.1 Toll free telephone services that will be available 24 hours a day 7 days a week; and

2.1.1.2 A web-based system that will be available 24 hours a day 7 days a week. FACN is committed to providing 98% uptime for the year of service, excluding scheduled maintenance activities and the downtime caused by any issues related to problems with the hosting company or hosting facility that FACN cannot control.

2.1.2 Documentation Requirement: UT and DFPS staff shall utilize the FACN web-based system to document all FACN referrals. Any referrals made through the FACN toll free number or through an FACN hospital or clinic will be entered into the website within 24 hours by the DFPS caseworker assigned to the case. UT must provide:

2.1.2.1 A timely written assessment of the results of the case consultation via the FACN web-based system; and

2.1.2.2 An affidavit or other documentation to meet court or administrative hearing requirements, if requested by DFPS.

2.1.3 Requirements for a Referral by Physician. If a child is seen at one of the clinics or hospitals by a FACN physician and the case should be a FACN referral,

2.1.3.1 The FACN physician must report the abuse or neglect case to DFPS Statewide Intake, if the case is not already a DFPS case;

2.1.3.2 The FACN physician or his/her representative must ensure a FACN referral is entered into the system; and

2.1.3.3 The FACN physician or his/her representative must make reasonable efforts to identify the assigned caseworker, communicate to the caseworker that a FACN referral has

already been made, and share the results of the written assessment with the caseworker upon the caseworker providing the child's person identification number.

2.1.4 Timeframes. Upon receipt of adequate supporting case information, as determined by the UT physician, the written assessment must be provided within the following timeframes:

2.1.4.1 Routine Referrals: within seven (7) calendar days of receipt of the referral;
2.1.4.2 Emergency Referrals: within three (3) calendar days of receipt of the referral, unless required earlier due to a judicial request or court or administrative hearing;
2.1.4.3 Complex Referrals: within a mutually agreeable time period; and
2.1.4.4 Referral by Physician: within three (3) calendar days of a child being seen at a hospital or a clinic.
2.1.4.5 If additional information is needed to make a determination on a case, the assigned physician will make contact with the caseworker. On the 14th day of inactivity, a second request will be emailed to the caseworker and the caseworker's supervisor. On the 21st day of inactivity, an e-mail will be sent to the caseworker, the caseworker's supervisor, and as appropriate, the CPI or CCL State Office Liaison. The 21st day e-mail will state that the case will be closed in one week if the additional information is not obtained. If DFPS has not responded and no additional information is forthcoming, the physician may designate the case as "inactive" after the 28th day.
2.1.4.6 Closed cases must remain accessible to the caseworker on the website.

2.1.5 MEDCARES

2.1.5.1. In accordance with Subchapter D, Chapter 261, Section 261.3017 of the Family Code the Forensic Assessment Center Network (FACN) must have the ability to obtain consultations with physicians, including radiologists, geneticists and endocrinologists, who specialize in identifying unique health conditions, including:

a. Rickets, Ehlers-Danlos Syndrome;
b. osteogenesis imperfecta;
c. vitamin D deficiency; and
d. other similar metabolic bone diseases or connective tissue disorders.

2.1.5.2. If during an abuse/neglect investigation or assessment of one of the unique health conditions mentioned in Section 2.1.5.1, the

Department or FACN physician determines that a child requires a specialty consultation, the FACN physician shall refer the child's case to MEDCARES for the consultation, if MEDCARES has available capacity to review the child's case.

2.1.5.3. In providing assessments to the department on the unique health conditions provided by Section 2.1.5.1, the FACN and MEDCARES program must use a blind peer review process to resolve cases where physicians in the FACN and MEDCARES disagree on the causes of a child's injuries or in the presence of a condition listed under Section 2.1.5.1. A blind peer review process is defined as a review requiring the de-identification of the names of pertinent medical professionals consulting on the case.

2.2 Regional Case Consultations. UT shall provide the following regional case consultation services:

2.2.1 UT physicians will provide regional case consultations, as requested by CPS regional nurse consultants or the CCL State Office Liaison; and

2.2.2 Coordinate locations and dates of the regional case consultations with CPSregional nurse consultants or the CCL State Office Liaison. Regional case consultations may be conducted in person or via webinar.

2.3 Expert Testimony. FACN medical experts shall provide expert testimony in civil court cases, at the Department's request, either via telephone or in person. An FACN medical expert shall not be required to appear in person for state court testimony in a county beyond 150 miles of where the expert resides, but the expert will be available to testify via telephone in such cases if requested by the Department.

2.4 Training and Presentations.

2.4.1 UT will communicate with CPS regional nurse consultants and the CPI and CCL State Office Liaisons regarding the ongoing training needs of the DFPS staff.

2.4.2 UT shall provide the following:

2.4.2.1 Continuously posted on-line training, explaining how to use the FACN web-based system. UT is responsible for ensuring this information is current;

2.4.2.2 One face-to-face training organized by DFPS in each of the 11 DFPS regions, for a total of 11 trainings per year. UT physicians will make themselves available to provide up to 11 additional in-

person or webinar trainings per year if requested by DFPS regional nurse consultants, the CCL State Office Liaison or another DFPS designee; and

2.4.2.3 Upon request by the CPS Medical Services Division, one 1-2 hour training for the CPS regional nurse consultants conducted in-person or via webinar. In addition, UT will provide DFPS nurse consultants access to on-line courses that provide nursing CEUs.

2.4.4 UT must coordinate with the CPS regional nurse consultants or the CCL State Office Liaison on locations and dates of delivery for each training.

2.4.6 FACN must ensure that all training objectives and materials are provided to DFPS. DFPS staff will be given sufficient notice (no less than 2 weeks prior to scheduled date of training) of upcoming trainings.

2.5 **Peer Review Process.** During the Contract period, UT will maintain the peer review process for physicians. The process should help physicians come to a consensus when they disagree about an abuse/neglect diagnosis.

2.6 **Reports.** UT will submit monthly progress reports to the CPI, CCL, and Purchased Client Services ("PCS") State Office Liaisons no later than the 15th day of the month following the end of the previous month/quarter in which the reports are due (e.g. a monthly report for March will be due April 15) in a format provided by DFPS. UT will ensure quarterly reports are available via the web based system. The monthly and quarterly reports described in 2.6.1 and 2.6.2 respectively will be provided in a format approved by DFPS. UT and DFPS will hold at least quarterly conference calls to discuss the monthly and quarterly progress reports. Quarterly conference calls will be scheduled by CPI, and CPI will ensure that UT, CCL and PCS State Office Liaisons are given at least 2 weeks' notice prior to said calls.

2.6.1 The monthly progress reports will include a list of the activities categorized by DFPS programs (i.e., CPI/CPS, CCL) that were completed during the previous month, including:

2.6.1.1 The total number of referrals received during the month, by county, DFPS region and physician that are documented on the FACN website;

2.6.1.2 The timeliness of the number of referrals received during the month, according to the timeframes noted in 2.1.4.

2.6.1.4 The total number of written assessments provided during the month by county, DFPS region and physician;

2.6.1.5 The total number of Regional Case Consultations conducted by DFPS region and physician;

2.6.1.6 Dates and locations where expert testimony was provided, including the name of the physician that provided the testimony. Also specify whether the testimony was provided in person or by phone;

2.6.1.7 Dates and locations where trainings were held and method of delivery (including the name of the physician conducting the training). A sign in sheet of DFPS staff (full names and employee id numbers) that attended the trainings is provided to CLOE.

2.6.1.8 Any identified training needs for DFPS staff;

2.6.1.9 Dates, locations and method of delivery of regional case consultations that have been held and those that have been planned as described at 2.2;

2.6.1.10 Dates, locations and method of delivery of trainings that have been held, as described at 2.4,2.3;

2.6.1.11 Numbers of presentations or trainings regarding the FACN network provided by special request (such as conferences, meetings with judges, physicians or other key stakeholders);

2.6.1.12 The type of abuse and/or neglect involved for all of the FACN referrals as described in 2.6.1.1;

2.6.1.13 A report regarding client services broken down by modality by center, child age, and ethnicity and Average Consultations per Site per Reporting Period; and

2.6.1.14 Aggregate data regarding the statewide peer review process.

2.6.2 UT will provide DFPS additional requested reports as mutually agreed upon by both parties.

2.6.3 In addition to the monthly progress reports noted in 2.6.1, quarterly progress reports will be available on the web-based system and will be discussed during quarterly meetings. The quarterly progress reports will include all the information contained in the monthly reports for that quarter.

2.6.4 UT will report Performance Measure data as specified in Attachment C.

2.6.5 **Intellectual Property.** Except as otherwise provided in this Contract, all products produced by UT as a result of this Contract become the sole property of DFPS, including, without limitation, all plans, designs, software, and other contract deliverables. If UT develops any copyrightable material in the course of performing this Contract, then UT will grant the State of Texas, DFPS, any federal awarding agency, a royalty-free, non-exclusive, and irrevocable right to reproduce, publish, or otherwise use, and to authorize others to use, the work for governmental purposes. This section does not apply to any report, document, or other data, or any invention of UT which existed prior to, or was developed or discovered independently from, its activities related to or funded by this Contract.

ARTICLE 3 – CONFIDENTIALITY

The individual case information provided by DFPS in a referral for case consultation and the subsequent written assessment is confidential pursuant to state and federal law. This information may not be used for any purpose other than the goals of this Contract. The information must not be released to third parties, unless the release is required or allowed by law, rule (e.g. release information to law enforcement, or county and district attorneys), or court order.

The parties intend, where appropriate, to use teleconferencing capabilities to conduct case consultations. If either party believes that it cannot comply with the requirements of the Security Rule then the parties agree that any electronic transmission of PHI shall be limited to PHI which has been de-identified.

ARTICLE 4 - CONTRACT MANAGEMENT

4.1 **CONTRACT AMENDMENTS.** Only a written amendment signed by both parties may amend this Contract.

4.2 **SUBCONTRACTING.** UT must obtain the Department's prior written consent before procuring and subcontracting for any services to be provided pursuant to this Contract. Any request for approval of a subcontract must include identification of the proposed subcontractor, reason for selection, a copy of the proposed subcontract and a description of the exact services subcontracted.

If UT uses a standard subcontract, it must provide DFPS with a copy of the blank subcontract. No subcontract will be approved unless it contains a clause that the subcontractor agrees to accept and abide by all terms and conditions imposed on UT in the Contract between DFPS and UT.

4.2.1 Other Responsibilities of UT. UT shall be responsible to the Department for any subcontractor's performance under this Contract. UT will monitor subcontractor performance on a method and timeframe agreed to by both UT and DFPS. UT shall, and will require any subcontractors to:

4.2.1.1 Provide services in accordance with the provisions of this Contract and to allow the Department and its representatives to monitor, audit, evaluate, and otherwise review the services provided and related documentation.

4.2.1.2 Notify the Department immediately and in advance of any significant change affecting UT, including change of subcontractor's name or identity, ownership or control, governing board membership, personnel, payee identification number, and other. Notice will be provided in writing to the Department within ten (10) working days of change.

4.2.1.3 Provide statements from subcontractors signed by an official duly authorized to legally obligate the subcontractor and attest to the fact that it

shall provide the services as represented in this contract, including the incorporated documents, with no disruption to service delivery. A similar statement must be signed by each subcontractor who will provide services as part of the Contract. Each subcontractor may be required to submit ownership information and other information related to this Contract. UT must disclose any information regarding subcontractors.
4.2.1.4 Due to the nature of DFPS business, DFPS will conduct Criminal Background Checks, or in some instances allow verification of Criminal Background Checks, and Abuse and Neglect History Checks on an initial basis and subsequently every two years for UT and subcontractor staff, excluding physicians, involved in direct delivery of services to DFPS clients, including access to personal client information.

Any employee of UT or subcontractor must be pre-approved by DFPS before engaging in direct delivery work under this Contract. DFPS retains the right to demand that UT cease using any employee of UT or subcontractor. UT agrees that replacement or removal of the staff person in question shall occur as soon as reasonably possible, but in no case more than twenty-four hours from receipt of such request from DFPS.

4.3 Accounting. UT shall adhere to Generally Accepted Accounting Principles promulgated by the Federal Accounting Standards Board and 2 CFR 200, and follow Department fiscal management policies and procedures in submitting timely billings and maintaining financial records required to be kept under this Contract.

4.4 Record Keeping. UT shall maintain financial, programmatic, and supporting documents, statistical records, inventories of non-expendable property acquired, and other records pertinent to claims submitted during the Contract period for a minimum of five (5) years after the termination of the Contract period. If any litigation, claim, or audit involving these records begins before the five (5) year period expires, UT will keep the records and documents for not less than five (5) years and until all litigation, claims, or audit findings are resolved. The case is considered resolved when a final order is issued in litigation, or a written agreement is entered into between the Department and UT. Contract period means the beginning date through the ending date specified in the original Contract.

4.5 **Records.** THE CONTRACTOR MUST NOT DISPOSE OF RECORDS BEFORE PROVIDING THE DEPARTMENT'S CONTRACT MANAGER WRITTEN NOTICE OF ITS INTENT TO DISPOSE OF RECORDS AND RECEIVING WRITTEN APPROVAL FROM THE DEPARTMENT'S CONTRACT MANAGER.

4.6 Reviews. UT shall cooperate fully in any social studies or fiscal and programmatic monitoring, auditing, evaluating, or other reviews pertaining to services rendered by UT and any subcontractor which may be conducted by the

Department or the United States Department of Health and Human Services, or their authorized representatives; and to be responsible for any audit exception or other payment irregularity regarding this Contract or subcontract, but only if such exception or irregularity is due to the sole negligence of UT, which may be found after review by the Department or the United State Department of Health and Human Services; and to be responsible for the timely and proper collection and reimbursement to the Department of any amount paid in excess of the proper billing amount.

4.7 **Audits.** Acceptance of funds under this Contract acts as acceptance of the authority of the State Auditor's Office, Texas Health and Human Services Commission, Office of Inspector General, or any successor agency, to audit or investigate the expenditure of funds under this Contract or any subcontract. UT further agrees to cooperate fully with the State Auditor's office or its successor, including providing all records requested. UT will ensure that this clause concerning the authority to audit funds received indirectly by subcontractors through UT and the requirement to cooperate is included in any subcontract it awards.

4.8 **Termination and Remedies**

4.8.1 **Termination for Cause.** If either party fails to perform its obligations under this Contract, the other party may, upon written notice of default, terminate all or any part of this Contract after giving notice of at least 30 days and an opportunity to comply with provisions of this Contract within 30 days.

4.8.2 **Changes in Law.** If federal or state laws or other requirements are amended or judicially interpreted so that either party cannot reasonably fulfill this Contract, and if the parties cannot agree to an amendment that would enable substantial continuation of the services, the parties shall be discharged from any further obligation under this Contract upon written notice to the other party specifying the date of termination.

4.8.3 **Termination at Will.** This Contract may be terminated at any time by mutual consent. In addition, either party to this Contract may terminate this Contract by giving 30 days written notice to the other party. This Contract will be terminated at the end of the 30-day period.

4.8.4 **Effect of Termination.** The termination of this Contract shall not relieve DFPS of the obligation to pay for services rendered prior to the effective date of such termination. The provisions of Section 7.9 (Data Collection) and Section 7.10 (Training Materials) shall survive the termination of this Contract.

ARTICLE 5 - COMPENSATION; CONTRACT AMOUNT

5.1 **Amount of Payment.** The Department shall pay UT up to a maximum of $12,299,750.00 for services rendered in accordance with the terms of this Contract upon receipt of a proper and verified statement and after deducting any known previous overpayment made by the Department. By August 1 of each year this contract is in effect, Contractor will provide DFPS with an updated Narrative and Budget for prior approval for the upcoming State of Texas fiscal year. All Narratives and Budgets must be approved by DFPS no later than August 31. If program income accrues, UT shall return to the Department any income that exceeds actual costs incurred for services rendered under this Contract. In no event shall payments exceed UT's actual reasonable, necessary, and allowable costs to provide services under this Contract.

5.2 **Budget and Supporting Narrative.** The Department agrees to reimburse UT the reasonable, allowable, and allocable costs according to the Budget and Narrative attached hereto as Attachment A. The attached Budget and Narrative must include a fixed monthly price for the on-going operations, maintenance, and performance improvement of the FACN web-based system.

5.3 **Funds Availability.** This Contract is at all times contingent upon the availability and receipt of state or federal funds that the Department has allocated to this Contract; and if funds for this Contract become unavailable during the term of this Contract this Contract may be immediately terminated or reduced at the discretion of the Department or UT. As of the effective date of this Contract, the Department represents and warrants that it has received funding to compensate UT for the services contemplated under this Contract.

5.4 **Invoicing.** UT shall submit a monthly invoice in the format prescribed by the Department, for payment of reimbursable costs to DFPS no later than the 20th day of the month following the month in which services were performed. Notwithstanding anything to the contrary, the final invoice shall be submitted within forty-five (45) days after the end date of this Contract.

5.5 **Method of Payment.** DFPS shall pay for services received from its appropriation items or account from which like expenditures would normally be paid, based upon vouchers drawn by the DFPS payable to UT.

Payments received by UT shall be credited to its current appropriations items or accounts from which the expenditures of that character were originally made.

5.6 **Basis for Payment.** The basis for payment for services rendered under this Contract is indicated in the service terms with the Budget and Narrative. UT agrees to this basis for payment and to adhere to the fiscal and billing policies and procedures noted in this Contract.

The Department is not obligated to pay unauthorized costs or to pay more than UT's allowable and actually incurred costs consistent with federal and state regulations. UT is responsible for submitting bills in an accurate and timely manner for each service period and for notifying the Department of a need to expedite payment. The Department will make reasonable efforts to process all bills received in an accurate and timely manner but does not warrant immediate payment.

5.7 Budget Changes. (For Cost Reimbursement Contracts only.)

5.7.1 For contracts of $100,000 or more, transfers between line items of a budget reaching a cumulative amount that exceeds ten percent (10 %) of the total FY budget will require prior approval from DFPS' contract manager. Lack of prior approval in these instances will be grounds for nonpayment of the item or items involved.

5.7.2 For transfers not requiring prior approval from DFPS, as designated in Section 5.7.1., UT shall describe and report such transfers by letter within thirty (30) calendar days to DFPS. Any transfers shall be for allowable items as defined by DFPS that do not result in a significant change in the character or scope of the program.

5.7.3 For all contracts, regardless of dollar amount, prior written approval must be secured:

5.7.3.1 When transfers would result in a significant change in the character or scope of the program. Lack of prior approval in these instances will be grounds for recovery of unapproved payments and termination of this Contract at the option of DFPS; and

5.7.3.2 When applicable federal cost principles in 2 CFR 200 apply additional pre-approval requirements.

5.8 Personal Property. For Cost Reimbursement contracts, UT shall assume responsibility for the protection of all personal property purchased under this Contract and to take appropriate measures to meet this obligation. UT shall furnish DFPS with a written, factual report of the theft of, or damage to, any personal property purchased under this Contract, including circumstances concerning the loss. In addition, in the event of any theft, vandalism, or other offense against the personal property, UT shall notify appropriate local law enforcement authorities.

5.9 Equipment. For Cost Reimbursement contracts, equipment shall be defined as an article of tangible nonexpendable personal property having a useful life of more than one year and an acquisition cost which equals or exceeds the lesser of: the capitalization level established by UT for financial statement purposes; or

$5,000. UT shall follow the provisions of State of Texas law applicable to state agencies regarding disposition of any equipment purchased under this Contract with funds allocated to UT. UT shall not give any security interest, lien, or otherwise encumber any item of equipment purchased with Contract funds. UT shall identify all equipment purchased under this Contract by appropriate tags or labels affixed to the equipment and to maintain a current inventory of equipment which is available to DFPS at all times upon request. Cost reimbursement contractors must also follow the following guidelines when contracting with DFPS:

5.9.1 Cost reimbursement contractors must add certain types of equipment items that are classified as "controlled assets" as designated in the Comptroller's State Property Accounting User Manual ("SPA Manual") to its inventory. The following equipment shall be added to the inventory list based on the noted acquisition costs: Maintained irrespective of cost - Firearms (i.e. hand gun, rifle); Maintained with costs of $500 to $4,999 – (1) Stereo System, (2) Camera, (3) Video Recorder/Laserdisc Player (TV, VCR, Camcorder), (4) Desktop CPU (not Apple), (5) Printer (not portable), (6) CPU Desktop – Apple, (7) Data Projectors, (8) Portable CPU – not Apple (Laptop), and (9) Portable CPU – Apple (Laptop). UT should review the SPA Manual, available on the Internet, periodically for the most current list.

5.9.2 UT estimates useful life of depreciable assets based on historical data, if available. If historical information is not available for a particular type of equipment, UT will follow the American Hospital Association's (AHA) "Estimated Useful Lives of Depreciable Assets" for equipment disposition purposes of establishing the useful life of equipment purchased with DFPS funds, except when federal or statutory requirements supersede.

5.9.3 UT must request DFPS approval before disposing of equipment or controlled assets prior to the end of the useful life for that item.

5.9.4 Any change to the equipment category in a cost reimbursement budget, will require prior approval from DFPS.

5.10 Regulation Compliance. UT shall remain in compliance with 2 CFR, Part 200 as applicable and the Texas Uniform Grant Management Standards (UGMS).

In the event of any conflict or contradiction between or among the regulations referenced in this Contract term, the regulations shall control in the following order of precedence: 2 CFR, Part 200; and UGMS.

5.11 Travel Reimbursement. Travel expenses within the city where the provider maintains an office will not be reimbursed. DFPS will reimburse travel expenses incurred to provide a contracted service in a city other than the one in which the provider lives or maintains an office. The amount may not exceed the travel

reimbursement rates relating to lodging, meals, and mileage for state employees established by the Texas Comptroller of Public Accounts. Information regarding travel may be found at: http://fmx.cpa.state.tx.us/fmx/travel/textravel/index.php. Mileage must be calculated from the city of the provider's home address, or the city of UT's office located closest to the client, whichever is less. A mileage log must be maintained by each service provider to reflect the client's name, complete address of location leaving from and where services are being delivered, and total mileage.

ARTICLE 6 - TERM OF CONTRACT

This Contract will become effective as of September 1, 2019 and shall terminate on August 31, 2024.

ARTICLE 7 - MISCELLANEOUS PROVISIONS

7.1 **Entirety.** This Contract and Attachments A through D contain the entire understanding of the parties with respect to the subject matter of this Contract and supersedes all previous discussions, proposals, or agreements written or oral between the parties.

7.2 **Notices.** All notices to DFPS under this Contract must be sent to the attention of the Assistant Commissioner for Child Protective Services, Telephone 512-438-3269, Texas Department of Family and Protective Services, Mail Code E-550, P.O. Box 149030, Austin, Texas 78714-9030. All notices to UT under this Contract must be sent to the attention of The University of Texas Health Science Center of Houston, Senior Executive Vice President, Chief Operating and Financial Officer, at 7000 Fannin Street, Suite 1721, Houston, Texas 77030.

7.3 **Lobbying Limitations.** UT shall not use any funding to support the services contained in this Contract to influence the outcome of elections or the passage or defeat of any legislative measures.

7.4 **Taxes.** The Department shall not be liable for state, local, or federal excise taxes.

7.5 **Payroll Taxes.** UT must be able to demonstrate on-site compliance with the Federal Tax Reform Act of 1986, Section 1706, amending Section 530 of the Revenue Act of 1978, dealing with issuance of Form W-2's to common law employees.

7.6 **Employee Benefits.** UT is responsible for both Federal and State Unemployment insurance coverage and standard Workers' Compensation Insurance coverage. UT must comply with all Federal and State tax laws and withholding requirements. The Department will not be liable to UT or its

employees for any Unemployment or Workers' Compensation coverage, or Federal of State withholding requirements.

7.7 Force Majeure. Neither party shall be liable to the other party for delays or failures to perform caused by force majeure (i.e. those causes generally recognized under Texas law as constituting impossible conditions). Such delays or failures to perform shall extend the period of performance until these exigencies have been removed. The party seeking to avail itself of this clause shall notify the other party within five (5) business days or otherwise waive the right as a defense, unless notification is impractical under the circumstances, in which case, notification shall be done in as timely a manner as possible.

7.8 Data Collection. DFPS shall have an unlimited license to use any data collected by UT in the performance of this Contract.

7.9 Training Materials. DFPS shall have an unlimited license to use any training materials created by UT pursuant to this Contract.

7.10 Regent Approval. Notwithstanding any other provision in this Contract to the contrary, this Contract is subject to the review and approval by The Board of Regents of The University of Texas System (the "Board") under Rules and Regulations of the Board, Rule 10501, Section 3. The validity and effectiveness of this Contract is contingent upon such approval of this Contract by the Board through the docketing requirements and approval process under the Rules and Regulations of the Board. If the Board does not approve this Contract by August 31, 2019, then this Contract will automatically terminate as of that date and the total value of the services that UT provides to DFPS under this Contract and the total amount paid by DFPS to UT under this Contract will not in any event exceed $2,499,999.99.

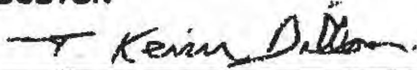
Article VIII. - CERTIFICATIONS

A. THE UNDERSIGNED AGREEING PARTIES certify that:

1. the services specified above are necessary and essential for activities that are properly within the statutory functions and programs of the affected agencies of the State of Texas;
2. the proposed arrangements serve the interest of efficient and economical administration of the State of Texas; and,
3. the services, supplies, or materials covered by this Contract are not required by Section 21 of Article 16 of the Constitution of Texas to be supplied under contract given to the lowest responsible bidder.

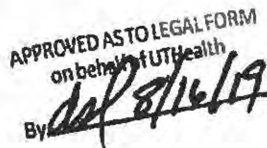
B. DFPS further certifies that (1) it has authority to contract for the above services pursuant to Chapter 40, Texas Human Resources Code and Chapter 771, Texas Government Code, and (2) the representative signing this Contract on its behalf is authorized by its governing body to sign this Contract.

D. The undersigned parties bind themselves to the faithful performance of this Contract.

THE UNIVERSITY OF TEXAS HEALTH SCIENCE CENTER AT HOUSTON	**TEXAS DEPARTMENT OF FAMILY AND PROTECTIVE SERVICES**
	
Signature	Signature
Printed Name: T. Kevin Dillon	Printed Name: Trevor A. Woodruff
Printed Title: Senior Executive Vice President, Chief Operating and Financial Officer	Printed Title: Texas Department of Family and Protective Services Acting Commissioner
8/19/19	8/19/19
Date	Date

THE FOLLOWING ATTACHMENTS TO SYSTEM AGENCY CONTRACT NO. 530-13-0090-00001 ARE HEREBY INCORPORATED BY REFERENCE:

ATTACHMENT A - UT HOUSTON NARRATIVE FY 2020
ATTACHMENT B - COPY OF UT HOUSTON FY2020 BUDGET
ATTACHMENT C – GOAL AND PERFORMANCE MEASURES



Narrative

Contractor: UTHSC – Houston (FACN)
Contract No: ____________
Contract Period: Sept. 1, 2019-Aug. 31, 2020

Salary: Requested funding for personnel at UTHSC-Houston Medical School includes one Site Director/Child Abuse Pediatrician (.50 FTE); one Child Abuse Pediatricians (.15 FTE); two Nurse Practitioners (.65 FTE and .15 FTE); one Senior Social Worker (.70 FTE); one Program Coordinator (1 FTE); a Psychiatrist (.20 FTE); a Senior Program Manager (.85 FTE) and a Research Coordinator (.25 FTE).

Fringe Benefits: Calculated at 17% for the Site Director, 22% for .15 Child Abuse Physician and Psychiatrist; 27% for the Program Coordinator, the Nurse Practitioners, Senior Program Manager and the Senior Social Work position' 34% for the Research Coordinator.

Travel:
Mileage ($0.58/mile); Lodging and Per Diems (Determined by Texas State Comptroller).
Travel for one national trip (child abuse related conference) per year for the Program Director. One in-state meeting (child abuse related conference) per year for the Program Director. One national meeting, for each (2) Fellow. Miscellaneous travel to include case reviews, training (both CPS and FACN Web Site), testimony, and travel for any other meetings as needed.

Materials and Supplies: Offices supplies include such items as books, pens, pencils, paper, folders, printer supplies, computer disks, labels, flash drives, scanner, etc.

Equipment: N/A

Other Costs:
Funds are requested for overnight express delivery services, 1-800 number fee, answering service, computer leasing, software and renewals for software licenses, and any other associated costs that are required to perform all duties as outlined in the FACN contract.
Consultants. Funds are requested for consultants' expertise and will be used as needed to handle specialty questions – e.g. a radiologist may be utilized to provide expert interpretation for radiologic images; a dentist may be utilized to provide expertise on bite marks, etc.
Sunnet Annual Maintenance – CPS/APS: Covers the cost of current contracts for maintenance services with SunNet Solutions.
IT Services: Covers the cost of current contracts for maintenance services with Dicom-Grid with the remaining funds to be used for continued development, implementation, modifications, and training for the FACN Web Site.

Indirect Costs: Indirect costs are calculated at 10% of salary only.

Texas Dept. of Family
and Protective Services

Budget for Purchase of Service Contracts

Form 2030
July 2011

Summary

Contractor UTHSC at Houston
Contract No.
Contract Period 09/01/2019-8/31/2020

click here for instructions

Cost Category	A Grand Total	B Reimbursable	C Other (Match)
(1A) Personnel - Salaries	504,038.19	504,038.19	0
(1B) Personnel - Fringe Benefits	124,232.86	124,232.86	0
Subtotal	628,271.05	628,271.05	0
(2) Travel	10,000.00	10,000.00	0
(3) Materials, Supplies, and Controlled Asset	1,000.00	1,000.00	0
(4) Equipment (Rent/Lease/Purchase)	0	0	0
Subtotal	11,000.00	11,000.00	0
(5) Other Costs (list below)	1,770,275.14	1,770,275.14	0
Subtotal	1,770,275.14	1,770,275.14	0
Foster or Day Care Total (per DFPS unit rate below)			
Total Direct Costs			
Total Indirect Costs (if applicable) _____10__%	50,403.81	50,403.81	
Grand Total	2,459,950.00	2,459,950.00	0

Unit Rate Contracts	Amounts
(a) Projected service units (days, etc.) x	
(b) Cost per unit of service (i.e., unit rates) x	
(c) Projected clients to be served	
Foster or Day Care Total	0

Certified by: ____________________

Name: ____________________

Title: ____________________

Date: ____________________

Texas Dept. of Family
and Protective Services

Budget for Purchase of Service Contracts

Form 2030
July 2011

(1A) Personnel - Salaries

Contractor UTHSC at Houston
Contract No.
Contract Period 9/1/2017-8/31/2018

Position or Title	A # Staff	B Avg. Monthly Salary	C %Time (on contract)	D # Months of Service	E Total AxBxCxD	F Reimbursable	G Other (Match)
Site Director (RG)	1	16,083.33	50%	12	96,500	96,500.00	
Child Abuse Pediatrician (SL)	1	14,333.33	15%	12	25,800.00	25,800.00	
Nurse Practitioner (MS)	1	9,856.75	70%	12	82,797.00	82,797.00	
Nurse Practitioner (AM)	1	9,725.42	15%	12	17,506.00	17,506.00	
Senior Social Worker (SS)	1	5,909.58	70%	12	49,640.50	49,640.50	
Program Coordinator (KB)	1	8,654.25	100%	12	103,851.00	103,851.00	
Senior Program Manager (RB)	1	7,307.41	85%	12	74,535.65	74,535.55	
Psychiatrist (CF)	1	16,166.66	20%	12	38,800.00	38,800.00	
Research Coordinator (RP)	1	4,869.38	25%	12	14,608.14	14,608.14	
				Total Salaries	504,038.19	504,038.19	0

*For monitoring purposes timesheets and payroll data must be kept on file.

**Costs not allowable if already being paid by other sources.

(1B) Personnel - Fringe Benefits

Contractor **UTHSC at Houston**
Contract No. **0**
Contract Period **09/01/2019-8/31/2020**

Type of Fringe Benefits	A Total	B Reimbursable	C Other (Match)
Site Director (RB)	16,405.00	16,405.00	
Child Abuse Pediatrician (SL)	5,676.00	5,676.00	
Nurse Practitioner (MS)	22,355.19	22,355.19	
Nurse Practitioner (AM)	4,726.62	4,726.62	
Social Worker (SS)	13,402.93	13,402.93	
Program Coordinator (KB)	28,039.77	28,039.77	
Senior Program Manager (RB)	20,124.59	20,124.59	
Psychiatrist (CF)	8,536.00	8,536.00	
Research Coordinator (RP)	4,966.76	4,966.76	
Total Fringe Benefits	124232.86	124232.86	0

*For monitoring purposes payroll data must be kept on file.
**Costs not allowable if already being paid by other sources.

Budget for Purchase of Service Contracts

(2) Travel

Contractor **UTHSC at Houston**
Contract No. **0**
Contract Period **09/01/2019-8/31/2020**

Type of Travel Expense (mileage/food/lodging etc.)	A Total	B Reimbursable	C Other (Match)
Airfare	2,500.00	2,500.00	
Registration	3,000.00	3,000.00	
Mileage	400	400	
Lodging/Per Diems	3,300.00	3,300.00	
Misc. Expenses	800.00	800.00	
Total Travel	**10,000.00**	**10,000.00**	**0**

*For monitoring purposes, receipts and other detailed records must be kept on file.
**Costs not allowable if already being paid by other sources.

Budget for Purchase of Service Contracts

(3) Materials, Supplies, and Controlled Assets

Contractor UTHSC at Houston
Contract No. 0
Contract Period 09/01/2019-8/31/2020

Materials and Supplies (description)	A Total	B Reimbursable	C Other (Match)
General office supplies	1,000.00	1,000.00	
Total Materials and Supplies	1000	1000	0

*For monitoring purposes, receipts and other detailed records must be kept on file.
**Costs not allowable if already being paid by other sources.

(4) Equipment

Contractor **UTHSC at Houston**
Contract No. **0**
Contract Period **09/01/2019-8/31/2020**

Equipment (description and basis of cost)	Method Used (rent/lease/buy)	A Total	B Reimbursable	C Other (Match)
N/A				
	Total Equipment	0	0	0

*For monitoring purposes, receipts and other detailed records must be kept on file.
**All equipment must be tagged and numbered.
**Costs not allowable if already being paid by other sources.

Budget for Purchase of Service Contracts

(5) Other Costs

Contractor UTHSC at Houston
Contract No. 0
Contract Period 09/01/2019-8/31/2020

Other Costs (description and basis of cost)	A Total	B Reimbursable	C Other (Match)
Consultants	30,000.00	30,000.00	
Answering Service	6,500.00	6,500.00	
Fed Ex., computer leasing, software renewals, DICOM, IT Changes	27,104.87	27,142.96	
Sunnet Maintenance	154,840.00	154,840.00	
Subcontracts	1,551,830.27	1,551,830.37	
Total Other Costs	1770275.14	1770313.33	0

*For monitoring purposes, receipts and other detailed records must be kept on file.
**Costs not allowable if already being paid by other sources.

1. Goal and Performance Measures

Pursuant to Texas Human Resources Code §40.058, all contracts for client services must include clearly defined goals and outcomes that can be measured to determine whether the objectives of the program are being achieved. The performance of the Contractor will be evaluated during the life of the contract through the Performance Measures found below and through monitoring of contract requirements outlined throughout the resulting contract.

The goal of this contract is to provide:

- Statewide access to forensic medical consultation services to DFPS staff;
- Expert testimony regarding child abuse/neglect diagnoses in DFPS cases; and
- Ongoing statewide training on the medical aspects of abuse and neglect to DFPS staff and others identified by DFPS.

15.1. Performance Measures

Critical Task #1: Contractor will complete routine assessments in a timely manner.
Performance Period: Data reported semi-annually, but annual determination of results.
Indicator: Percent of routine assessments completed within required time frames within the Reporting Period.
Target: 95%
Data Source: Survey Monkey
Methodology: Numerator: The total number of routine assessments completed within 7 calendar days of receipt of the referral during the Reporting Period. Denominator: The total number of routine assessments that were due during the Reporting Period.

Critical Task #2: Contractor will complete emergency assessments in a timely manner.
Performance Period: Data reported semi-annually, but annual determination of results.
Indicator: Percent of emergency assessments completed within required time frames within the Reporting Period.
Target: 95%
Data Source: Survey Monkey
Methodology: Numerator: The total number of emergency assessments that were completed and submitted within 3 calendar days of receipt of the referral during the Reporting Period. Denominator: The total number of emergency assessments that were due during the Reporting Period.

Quality #1: Contractor will provide quality assessments.
Performance Period: Data reported semi-annually, but annual determination of results.
Indicator: Percent of submissions accepted by DFPS without needing to be returned to the Contractor for corrections or additional information within the Reporting Period.
Target: 95%
Data Source: Survey Monkey
Methodology: Numerator: The total number of submissions (from Question 5 in Survey Monkey) that did not require DFPS to return them for corrections or additional information during the Reporting Period. Denominator: The total number of referrals that were completed and submitted during the Reporting Period. *Note: Submissions returned for the purpose of adding analysis with information not originally supplied by DFPS will be credited to the numerator.*

15.2. Performance Measure Requirements

The Contractor will be responsible for supporting the collection of Performance Measure data for Critical Task #1, Critical Task #2, and Quality #1 as well as other required metrics. The Contractor must:

A. Provide the total number of routine assessments completed within 7 calendar days of receipt of the referral during the Reporting Period.

B. Provide the total number of routine assessments that were due during the Reporting Period.

C. Provide the total number of Emergency referrals that were due during the Reporting Period.

D. Provide the total number of Emergency referrals that were completed and submitted within 3 calendar days of receipt of the referral during the Reporting Period.

E. Provide the total number of referrals that were completed and submitted during the Reporting Period.

F. Provide the total number of submissions (from Question 5) that did not require DFPS to return them for corrections or additional information during the Reporting Period.

G. Provide the total number submissions (from Question 5) that were returned for the purpose of adding analysis with information not originally supplied by DFPS during the Reporting Period.

H. Keep all records of referral (Form 2054s), assessments, consultations, submissions and all other required forms, as well as verification of submission on file and available to DFPS upon request for the time period specified by DFPS for records maintenance. The records must be maintained in a manner to allow for ease in testing of the validity of the results being reported. Required documentation must be maintained for each Reporting Period, including a copy of the performance results which were reported to DFPS Contract Performance.

I. Contractor will provide their name and Contract number to Contract Performance (email: conperf@dfps.state.tx.us) so that a Contract specific link to **Survey Monkey** may be created. Contract Performance will create a link and provide it to the Contractor.

  a. In addition to meeting the performance measure requirements to the Contract Performance Division, the Survey Monkey results are used for additional quality assurance and metrics.

J. Comply with report date timeframes. Performance Measure reporting is to be entered into PMET within 30 days of the end of the Reporting Period in accordance with the table below.

Reporting Period	Time Included	Report due between dates shown but no later than the last day indicated per Reporting Period
First Period (RP1)	Sept, Oct, Nov, Dec, Jan, Feb	March 1-31
Second Period (RP2)	Mar, April, May, June, July, Aug	September 1-30