

# REPORTING CHILD ABUSE AND NEGLECT: ONE SIZE DOES NOT FIT ALL



by Andrew C. Brown, J.D., and Parker Stathatos

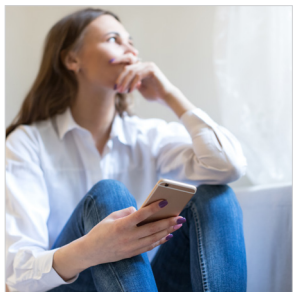
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# Reporting Child Abuse and Neglect: One Size Does Not Fit All

Andrew C. Brown, J.D., and Parker Stathatos

## Executive Summary

Under Texas law, every person is a mandatory reporter of child maltreatment, which means anyone who suspects or has knowledge of child abuse or neglect is required to report their suspicion to a government agency that is equipped to investigate and respond to the report. Failure to make a required report is punishable as a Class A misdemeanor in most cases but may be increased to a state jail felony in certain cases.

A person who makes a report can remain anonymous, which increases the likelihood that false or frivolous reports of child maltreatment intended to harm an innocent party will be filed. The time and manpower directed to responding to false and frivolous reports waste scarce state resources and taxpayer dollars and place children who are in actual danger at greater risk by increasing caseloads and response times. Only certain professionals have the training necessary to recognize and respond to child abuse or neglect.

Depending on the nature of the allegation, Texas law requires people who suspect or have knowledge of child maltreatment to submit their report to a law enforcement agency, the Texas Department of Family and Protective Services (DFPS), or another appropriate state agency. Some child welfare professionals have envisioned a multidisciplinary approach to addressing child abuse and neglect in which only professionals are mandated to report child abuse or neglect, which oftentimes should not include state involvement. For example, a child whose family is experiencing poverty is better served by a food pantry or community nonprofit organization than DFPS.

Investigations by Child Protective Services (CPS) result in administrative, not legal, dispositions. However, when DFPS believes someone has perpetrated child abuse or neglect, an individual can be listed in the state's central registry as a perpetrator of child maltreatment prior to having their case adjudicated in court and without receiving basic due process protections. Moreover, individuals who are later cleared of allegations remain listed on the registry until they successfully complete an administrative review process to have their name removed. Many reforms are needed to ensure agency time and resources are used appropriately and enable professionals to appropriately respond to child maltreatment. These reforms include requiring only certain professionals to report child abuse or neglect, prohibiting DFPS from accepting anonymous reports, and allowing mandated reporters to report instances of child abuse or neglect to the appropriate community resource or entity.<sup>1</sup>

## Key Points

- Texas' universal mandatory reporting of child abuse, along with laws permitting reporters to remain anonymous, can result in higher rates of unfounded, false, or even malicious reports that subject innocent families to the trauma of child welfare system involvement and waste limited taxpayer resources.
- Nonprofessional reporters of child maltreatment often lack the training necessary to identify cases of child abuse or neglect, which can lead to a higher rate of unsubstantiated allegations.
- Anonymous reporting allows individuals to submit false or frivolous claims of child maltreatment with little risk of accountability. Further, anonymous reports are substantiated at very low rates, rendering them of little value for protecting children from abuse or neglect.
- Professional mandated reporters should receive training in alternatives to CPS reports and be permitted to refer families to supportive services in their community in lieu of reporting.

<sup>1</sup> This publication utilizes data from the study *National child abuse and neglect data system (NCANDS) agency file FFY 2019* by the Children's Bureau, Department of Health and Human Services, which have been provided by the National Data Archive on Child Abuse and Neglect (NDACAN), a service of the Children's Bureau, U.S. Department of Health & Human Services. Nothing herein should be construed to indicate the support or endorsement of its content by the collector of the original data, their funding agency, NDACAN, or ACF/DHHS.

## Introduction

Any person in the state of Texas who has knowledge of or suspects child abuse or neglect is required to file a report with Child Protective Services (CPS; [Texas Family Code, Section 261.101\(a\)](#)). This universal mandatory reporting requirement, along with laws permitting reporters to remain anonymous, while well-intentioned, can result in higher rates of unfounded, false, or even malicious reports that subject innocent families to the trauma of child welfare system involvement and waste limited taxpayer resources.

## The History of Reporting Laws

Although documented research of child abuse dates back to at least the 1880s ([Crane, 2015, p. 769](#)), advocacy for the recognition and intervention in cases of child abuse did not gain traction until the 1960s. Prior to the 1960s, physicians attributed many unexplainable injuries suffered by children to a variety of unusual diagnoses, including metabolic disorders, infectious diseases, or simply a child's failure to thrive ([Kempe et al., 1962/2013, p. 24](#)). C. Henry Kempe—a pediatrician and pioneer in advocating greater awareness of child abuse—coined the term battered-child syndrome in 1962. Kempe et al. described battered-child syndrome as “a clinical condition in young children who have received serious physical abuse, generally from a parent or foster parent” ([p. 23](#)). According to Kempe et al., children who suffer from the battered-child syndrome are generally younger than three years old and present with “poor skin hygiene, multiple soft tissue injuries, and malnutrition” ([p. 24](#)). Kempe et al. reasoned that physicians who encountered children with such injuries had an “emotional unwillingness” to consider child maltreatment as the cause of the injury ([p. 25](#)). Physicians found it difficult to believe that a parent who voluntarily sought medical treatment for their child could also be the child's abuser ([p. 27](#)). Kempe is credited with raising awareness of child abuse amongst the medical community and pioneering processes for identifying and responding to possible cases of abuse physicians may encounter in their practice ([Child Welfare Information Gateway \[CWIG\], 2017a, p. 3](#)). Following his reporting of the battered-child syndrome in 1962, Kempe advocated for the formal adoption of a child maltreatment reporting system at the state and federal levels. By 1967, every state in the nation and the District of Columbia had enacted reporting laws.

In 1974, the U.S. Congress enacted the Child Abuse Prevention and Treatment Act (CAPTA), dramatically increasing federal involvement in efforts to prevent and respond to child abuse. Through CAPTA, the federal government provides grants and guidance to states to establish programs and protocols relating to the “prevention, assessment, investigation, prosecution, and

treatment” of child abuse ([CWIG, 2019a, p. 1](#)). In order to be eligible for federal funding under CAPTA, each state is required to submit to the U.S. Department of Health and Human Services a state plan describing the state's child protective system and services ([42 U.S.C. 5106a\(b\)\(1\)\(A\)](#)). The state plan must describe the state's process or program for receiving reports of “known and suspected instances of child abuse and neglect, including a State law for mandatory reporting by individuals required to report such instances” ([42 U.S.C. 5106a\(b\)\(2\)\(B\)\(i\)](#)). Although federal law requires a type of mandatory reporting, it allows states to designate which persons are mandatory reporters. In addition to its reporting requirements, CAPTA ([1974](#)) also requires that each state maintain databases, or central registries, relating to allegations of child abuse or neglect ([42 U.S.C. 5106a\(d\)](#)). CAPTA provides states with flexibility to develop their own rules for the operation of child abuse reporting and tracking systems, leading to considerable variation among states.

## Child Abuse Reporting and Investigation in Texas

### Reports to Statewide Intake

The Texas Department of Family and Protective Services (DFPS) is the agency responsible for investigating and responding to reports of abuse and neglect. Reports are received and processed through the department's Statewide Intake (SWI) division ([Texas Administrative Code \[TAC\], Rule 707.481\(a\)](#)). It is the role of SWI workers to screen reports to determine whether DFPS has the legal authority to investigate and, if so, refer reports to the investigations division for further action ([DFPS, 2020b, Section 2141](#)). Each report to SWI is classified as an intake, an information and referral report, or a case-related special request ([DFPS, n.d.-c, Section 2141](#)).

### Intakes

If an SWI worker determines that DFPS has the legal authority to investigate an allegation of child maltreatment, the report is classified as an intake. Allegations that may warrant a CPS investigation include emotional, physical, or sexual abuse, medical neglect, child abandonment, or refusal to assume parental responsibility ([DFPS, 2020b, Appendix 2140](#)). Among the 253,274 children reported to Statewide Intake during fiscal year 2020, only 68,461—or approximately 27%—were confirmed by CPS to be victims of the alleged abuse or neglect ([DFPS, 2020a, p. 3](#)).

### Information and Referral Reports

A report is classified as an information and referral report when DFPS cannot investigate an allegation because it does not meet the statutory definition of abuse or neglect. Each information and referral report is either sent to another agency, forwarded to field staff for review, or closed ([DFPS, n.d.-c, Section 3000](#)). For example, if a caller to SWI has



information about an open case, the caller's report would be classified as an information and referral report related to the case instead of being processed as a new intake ([Section 3120](#)). A report is also classified as an information and referral report when SWI sends information or refers a caller to another agency or governing unit, such as law enforcement ([Section 3171](#)), the Department of State Health Services (DSHS; [Section 3172](#)), or the Health and Human Services Commission (HHSC; [Section 3173](#)).

### Case-Related Special Request

A case-related special request is a request that requires case-work but does not allege child maltreatment ([DFPS, n.d.-c, Section 2510](#)). As shown in **Figure 1**, case-related special requests constitute a very small number of reports made to SWI since 2010. During 2020, case-related special requests accounted for less than 1% of all reports made to SWI.

DFPS uses a case management system named Information Management Protecting Adults and Children in Texas (IMPACT) to record information about intake reports, case investigations, and various stages of service ([DFPS, n.d.-c, Section 1510](#)). **Figure 1** shows the number of contacts reported to SWI and the type of report that was entered into IMPACT from fiscal year 2010 to 2020. The data include reports made to SWI through all forms of communication, primarily consisting of reports made over the phone and the internet.

The data in **Figure 1** include reports relating to all programs within DFPS programs, which includes reports to Child Protective Investigations (CPI), Adult Protective Services (APS), Day Care Investigations (DCI), and Residential Child Care Investigations (RCCI). In 2020, While approximately 415,000 contacts to DFPS alleged abuse or neglect among all DFPS programs, approximately 272,000 of those contacts alleged abuse or neglect of a child.

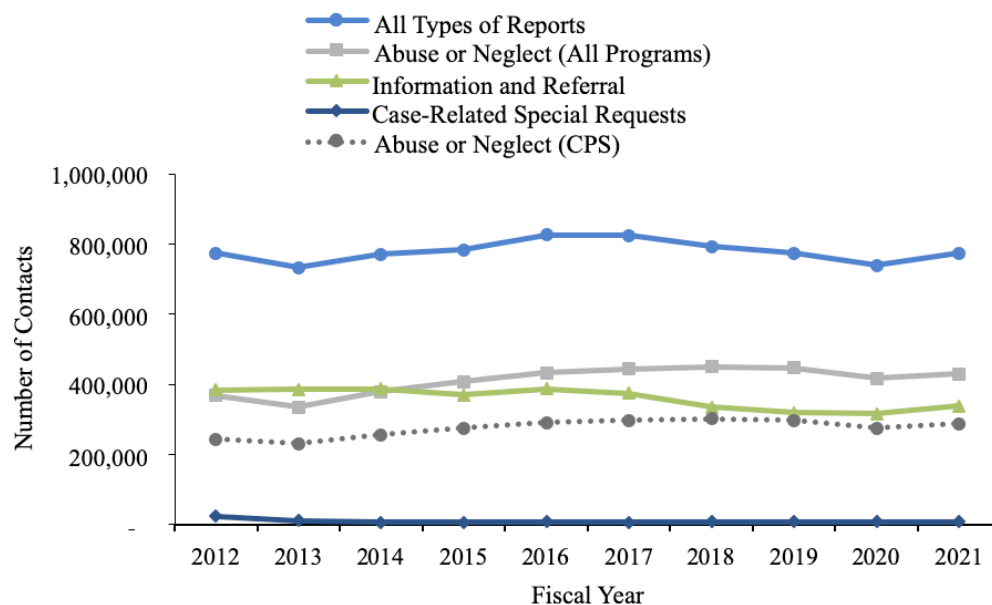
### Prioritizing Intake Reports

SWI workers must consider many situational factors when screening and prioritizing each report of child abuse or neglect ([DFPS, 2020b, Appendix 2140](#)). SWI workers assign each report a priority that is “based on the assessment of the immediacy of the risk and the severity of the possible harm to the child” ([TAC, Rule 707.485\(a\)](#)). A report can be classified as one of the following:

**Priority 1 (P1)** is generally assigned to reports that involve “a child [who] appears to face an immediate threat to his or her safety or is in immediate risk of abuse or neglect that could result in death or serious harm” ([DFPS, 2020b, Section 2143.1](#)). Reports prioritized as P1 can also include the death of a child that was never investigated or a report of repeated child abuse or neglect that was previously investigated. Child Protective Investigations (CPI) must respond to a report of child abuse or neglect immediately if a child is at risk of death or substantial bodily harm, and the report

**Figure 1**

*All Contacts to DFPS Statewide Intake (SWI) Division, Fiscal Year 2012–21*



Note. This graph is based on data from the Texas Open Data Portal, Department of Family and Protective Services, Dataset SWI 1.1, Updated February 3, 2022 (<https://data.texas.gov/dataset/SWI-1-1-Contacts-by-Program-Method-of-Receipt-and-/cdc7-2qx4>).

is classified as a Priority 1 ([TAC, Rule 707.485\(b\)\(1\)](#)). CPI is required to respond within 24 hours to all other reports that are classified as a Priority 1 ([TAC, Rule 707.485\(b\)\(2\)](#)).

**Priority 2 (P2)** is assigned to reports that fail to meet the criteria for P1 prioritization but still warrant an investigation based on the statutory definition of abuse or neglect ([DFPS, 2020b, Section 2143.2](#)). CPI must respond to a report of child abuse or neglect within 72 hours of a report being classified as a Priority 2 ([TAC, Rule 707.485\(b\)\(3\)](#)). Since the enactment of Senate Bill 423 (2013), this category includes reports assigned for alternative response. The alternative response protocol “lets CPI handle cases of abuse or neglect that initially present with less immediate safety or risk issues in a more flexible way – engaging families while still focusing on the safety of the children” ([DFPS, n.d.-a](#)).

**Priority None (PN)** is assigned to a report that does not meet the criteria for an investigation or intervention by DFPS ([DFPS, 2020b, Section 2143.3](#)). An SWI specialist may also prioritize a report as PN if the child is not in current danger or at risk of recurrence, even if the legal definitions of abuse or neglect may have been met. Furthermore, a report may be classified as PN and sent to an SWI screener if an allegation requires additional information to corroborate the report. Lastly, a report may be classified as

PN if it involves information pertaining to a child’s death that has already been investigated by CPI ([Section 2143.3](#)). When a report is classified as PN, an investigation is generally not needed for a caseworker to close a report ([Section 2156.4](#)).

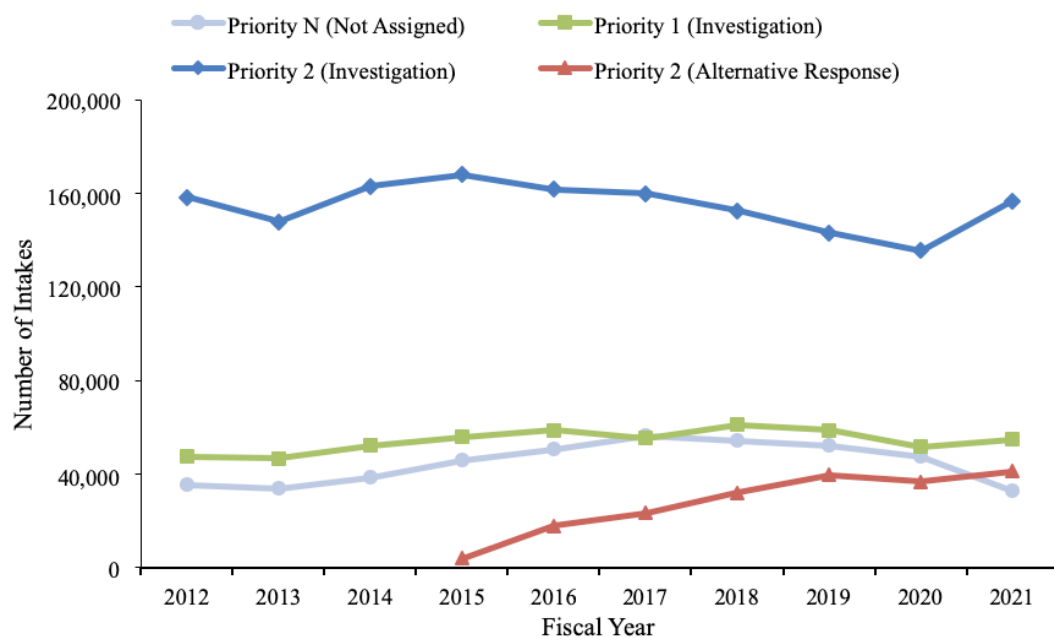
### Dispositions

CPI assigns each allegation of child abuse or neglect one of five dispositions at the end of an investigation ([TAC, Rule 707.495\(a\)](#)). The disposition assigned to each allegation in an investigation is used to determine an overall disposition for the investigation, the validity of each allegation, and the role of each person who was investigated ([TAC, Rule 707.495\(a\)\(1-3\)](#)). In addition, each “disposition assigned by an investigator is an administrative, not a legal, finding” ([Brown, 2020, p. 6](#)). This is important to note, as CPI’s authority to assign a disposition has wide-ranging implications for individuals and fundamental rights of families.

CPI caseworkers assign an overall disposition to an investigation after gathering information and determining the validity of each allegation of child abuse or neglect made in an intake report ([Brown, 2020, pp. 4–6](#); [DFPS, 2020b, Appendix 2472.1-A](#)). According to the Texas Administrative Code, Rule 707.495(b), CPI “may make any of the following dispositions:

**Figure 2**

*Prioritization of CPS Abuse or Neglect Intakes, Fiscal Year 2012–21*



Note. This graph is based on data from the Texas Open Data Portal, Department of Family and Protective Services, Dataset CPI 2.1, Updated February 7, 2022 (<https://data.texas.gov/dataset/CPI-2-1-Abuse-Neglect-Intakes-Screening-And-Priori/bg5z-umke>).

1. **Reason-to-believe.** Based on a preponderance of the evidence, [CPI] conclude[s] that abuse or neglect has occurred.
2. **Ruled-out.** [CPI] determine[s], based on available information that it is reasonable to conclude that the abuse or neglect has not occurred.
3. **Unable to complete.** [CPI] could not draw a conclusion whether alleged abuse or neglect occurred, because the family:
  - a. Could not be located to begin the investigation or moved and could not be located to finish the investigation; or
  - b. was unwilling to cooperate with the investigation.
4. **Unable-to-determine.** [CPI] conclude[s] that none of the dispositions specified in paragraphs (1)-(3) of this subsection are appropriate.
5. **Administrative closure.** Information [CPI] received after a case was assigned for investigation reveals that continued intervention is unwarranted”

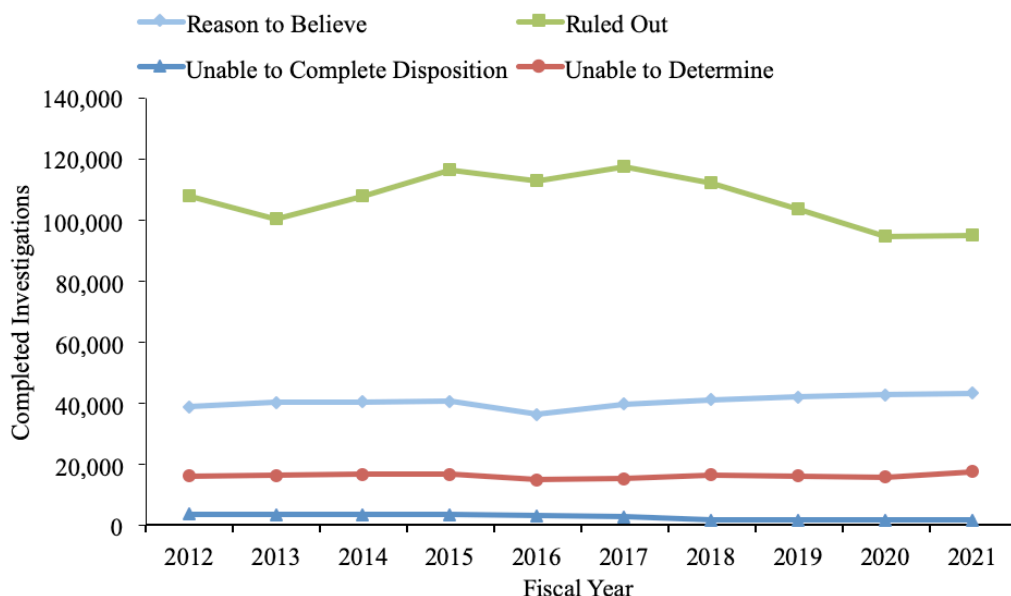
Although each report is assigned one of five overall dispositions, the data in **Figure 3** do not include reports assigned a disposition of administrative closure. Cases are administratively closed for a number of reasons, but, generally

speaking, this disposition is used when the department receives “additional information indicating that an investigation is no longer warranted” ([TAC, Rule 707.489\(b\)\(1\)](#)). Administrative closure can occur when an allegation has already been investigated, been refuted by a credible source, or involves circumstances over which the department does not have jurisdiction. The data in **Figure 3** only include the overall dispositions assigned to *completed* investigations reported to SWI.

When viewing the data presented in each of the charts as representing the progression of a case from initial report, to investigation, to disposition, it becomes clear that the number of reports is much larger than the number of allegations of abuse or neglect that are ultimately substantiated. **Figure 4** shows the total amount of reports—also known as contacts—made to SWI for fiscal years 2012–21. During this time, SWI received upward of 8 million reports pertaining to all DFPS programs, which includes adult protective services (APS), child protective services (CPS), day care licensing (DCL), and residential child care licensing (RCCL). Nearly 3 million of these reports alleged child maltreatment and only pertained to CPS, as illustrated by the gray bar. The dark blue bar represents the total number of completed CPS

**Figure 3**

*Dispositions of Completed Investigations Conducted by CPI, Fiscal Year 2012–21*



Note. This graph is based on data from the Texas Open Data Portal, Department of Family and Protective Services, Dataset CPI 3.3, Updated February 4, 2022 (<https://data.texas.gov/dataset/CPI-3-3-Abuse-Neglect-Investigations-Findings-by-C/vzdd-cppz>).

**Figure 4***Contacts to SWI, Intake Prioritizations, and Completed Investigations from Fiscal Years 2012–21*

*Note.* This graph is based on data from the Texas Open Data Portal, Department of Family and Protective Services, Dataset SWI 1.1, Updated February 3, 2022 (<https://data.texas.gov/dataset/SWI-1-1-Contacts-by-Program-Method-of-Receipt-and-cdc7-2qx4>), Dataset CPI 3.1, Updated February 8, 2022 (<https://data.texas.gov/dataset/CPI-3-1-Completed-Abuse-Neglect-Investigations-by-waxz-c9q5>), and Dataset CPI 3.3, Updated February 4, 2022 (<https://data.texas.gov/dataset/CPI-3-3-Abuse-Neglect-Investigations-Findings-by-C/vzdd-cppz>).

investigations. The four bars with the lowest amounts (Ruled Out, Reason to Believe, Unable to Determine, and Unable to Complete Disposition) represent dispositions of CPS intakes. As shown by the orange bar, CPS caseworkers have “reason to believe” that 500,000 reports of child maltreatment likely occurred from fiscal year 2012–21. Yet, during this period, CPS received over 2.5 million reports that alleged child maltreatment.

A similar pattern is also seen in national data. **Figure 5** from the 2019 edition of the U.S. Department of Health and Human Services Children’s Bureau’s annual *Child Maltreatment* report (2021, p. xiv) helps illustrate this more clearly.<sup>2</sup>

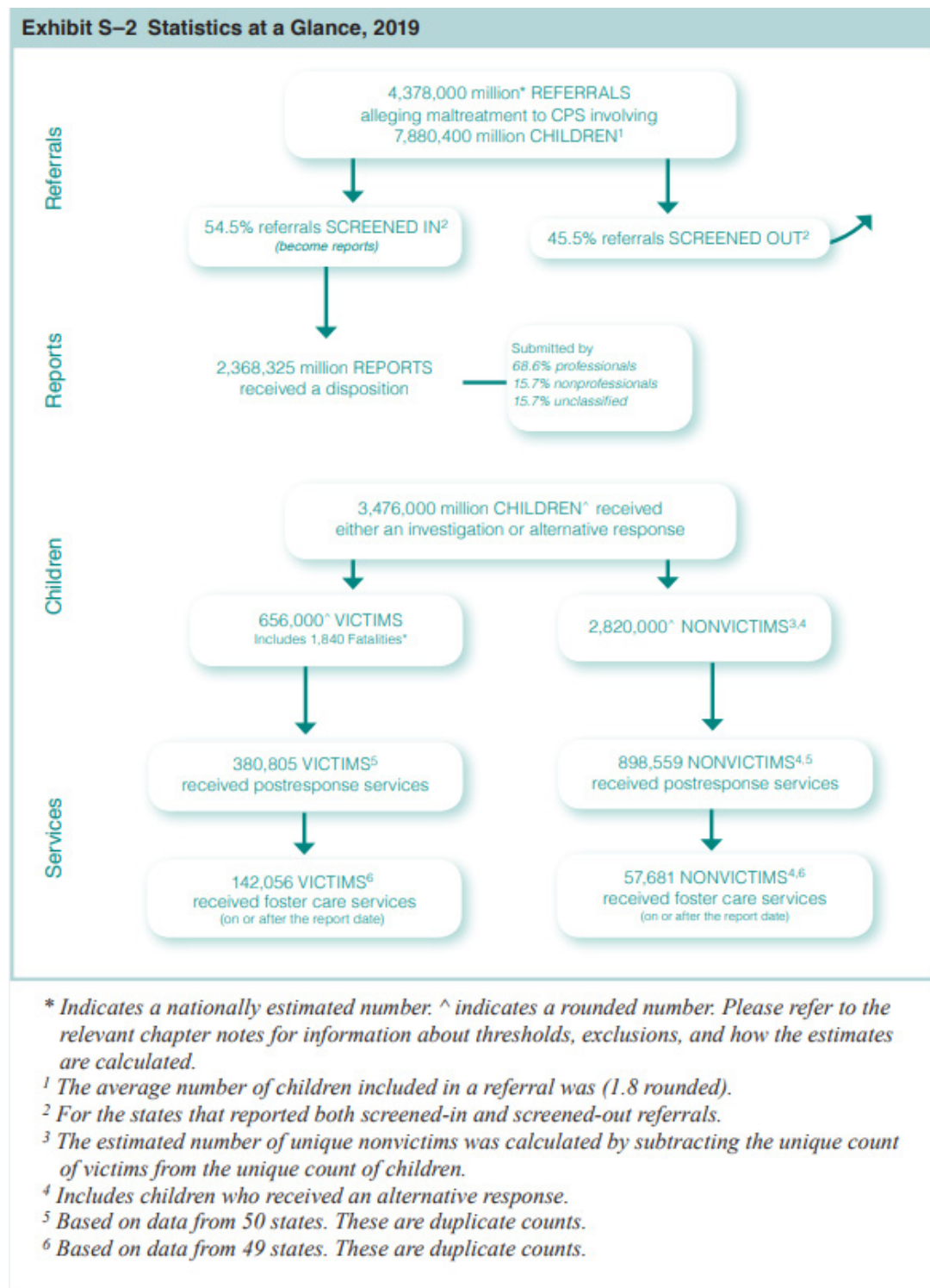
In FY 2019, there were nearly 4.4 million referrals to state child welfare agencies nationwide alleging maltreatment involving close to 7.9 million children. Of those referrals, 45.5% were immediately screened out with no response at all from CPS. Of the children reported to CPS as possible victims, less than half—approximately 3.5 million—were

the subject of an investigation or other response from CPS. Upon the conclusion of these investigations, more than 2.8 million of these children were found to be nonvictims, meaning that more than 80% of the children reported to CPS in the United States each year were determined not to have been victims of the abuse or neglect alleged. Only about 19% of children subject to a CPS investigation are ultimately confirmed as victims of abuse or neglect. When we include children who were screened out after the initial report and did not receive an investigation, this confirmation rate drops to only 8.3%. Thus, in both Texas and the nation, the total number of children reported to CPS as possible victims of abuse or neglect is much bigger than the total number of children actually confirmed to be victims. As we discuss, this discrepancy may be due, in part, to state laws governing the reporting of abuse and neglect suspicions.

<sup>2</sup> The 2019 report is referenced as it is the most recent year prior to the COVID-19 pandemic for which data are available. It should be noted, however, that while the total number of reports to CPS decreased by approximately 453,000 in FY 2020 (Children’s Bureau, 2022, p. xv) as compared to FY 2019 (Children’s Bureau, 2021, p. xiv), the rate of referrals screened in and out remained roughly the same.



**Figure 5**  
National Child Maltreatment Statistics



Note. Graph reproduced from *Child maltreatment 2019*, Children's Bureau, U.S. Department of Health and Human Services, 2021, p. xiv (<https://www.acf.hhs.gov/sites/default/files/documents/cb/cm2019.pdf>).

## Reporting Requirements

### Mandatory Reporting

Who is required to report suspicions of child abuse or neglect varies depending on states. In some states, only certain classes of professionals whose work involves regular contact with children are required to report, while other states have so-called “universal mandatory reporting,” which requires any person in the state to report suspicions of child abuse ([CWIG, 2019b, p. 2](#)). As of 2019, 47 states have laws in place that designate certain classes of individuals, usually identified by profession, as mandatory reporters. 18 states and Puerto Rico have enacted universal mandatory reporting laws, which require any individual who suspects child abuse or neglect to report their suspicion to CPS, law enforcement, or another appropriate agency. Individuals who do not fall into these categories may report but are not required by law to do so. With the exception of Indiana, New Jersey, and Wyoming, all U.S. states have specific reporting requirements in place for certain classes of professionals. When enumerating specific professions, states most often require social workers, educators, health care workers, child care providers, and public safety officers to report child abuse or neglect.

Texas is one of the 18 states with universal mandatory reporting. According to [Texas Family Code, Section 261.101\(a\)](#), “A person having 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 shall immediately make a report as provided by this subchapter.” Certain professionals<sup>3</sup> must report within 48 hours of having reasonable cause to believe that “a child has been abused or neglected or may be abused or neglected” ([Section 261.101\(b\)](#)). Reports of child abuse or neglect may be made to a law enforcement agency, DFPS, or the state agency with licensing jurisdiction over the facility where the abuse or neglect may have occurred ([Section 261.103\(a\)](#)).

The vast majority of states also provide penalties for mandatory reporters who fail to report suspicions of abuse or neglect. In Texas, failure to report is a Class A misdemeanor in most cases ([Texas Family Code, Section 261.109](#)). If the report involves a child with an intellectual disability or a perpetrator who attempted to hide the neglect or abuse, the penalty for the failure to report is upgraded to a state jail felony ([Section 261.109\(b-c\)](#)).

Given that the goal of reporting laws is to quickly identify and protect children who are either victims or in imminent danger of becoming victims of abuse or neglect, does

universal mandatory reporting help achieve this goal? Studies that have considered this question find that the answer is no.

A 2017 peer-reviewed study published in the *American Journal of Public Health* compared rates of total confirmed reports of physical abuse in states with universal mandatory reporting laws and in states that do not require universal reporting ([Ho et al., 2017, p. 709](#)). The authors found that while universal mandatory reporting achieved the goal of increasing the proportion of nonprofessionals who reported suspicions of child abuse, those “reports were less likely to be confirmed compared with those made by professionals” ([p. 713](#)). Based on the data examined, the study then predicted the probability of an abuse report being confirmed. Among nonprofessional reporters, the chance of making a confirmed report in states without universal mandatory reporting laws was 1 in 8, roughly equivalent to the accuracy of reports made by professionals in states with universal mandatory reporting. In states with universal mandatory reporting, the chances of making an accurate report dropped significantly, with only 1 in 15 reports made by nonprofessionals ultimately being confirmed. These findings led the authors to conclude that universal mandatory reporting “does not appear to be achieving its intended goal of improving identification of children victimized by physical abuse” ([p. 713](#)). Moreover, the authors hypothesized that universal mandatory reporting “can potentially lead to poorer outcomes” because the higher number of unconfirmed reports filed in states with universal mandatory reporting “divert valuable but limited resources from endangered children who are actually in need of protection” ([p. 713](#)).

Similar results were found in a study that used California child protection and birth record data to determine if a reporter’s status as a mandated reporter or their profession was predictive of report substantiation rates ([King et al., 2013, p. 232](#)). Reviewing research dating as far back as 1995, this study consistently found that “reports from mandated sources are more likely to be substantiated than reports from nonmandated sources” ([p. 233](#)). Nonmandated sources, also known as nonprofessional reporters, are individuals who do not have a legal obligation to report child maltreatment. One study, which King et al. highlighted as producing “the strongest findings regarding the role of reporter status,” ([p. 233](#)) found that reports from mandated professional reporters are five times more likely to be substantiated than reports made by nonprofessional reporters. Further, reports submitted by certain classes of mandated reporters, including public safety officers, health

<sup>3</sup> “Professional” includes teachers, nurses, doctors, day-care employees, employees of a clinic or health care facility that provides reproductive services, juvenile probation officers, and juvenile detention or correctional officers ([Texas Family Code, Section 261.101\(b\)](#)).

care workers, and workers in public agencies, are substantiated at a higher rate than reports made by other mandatory reporters ([p. 232](#)).

Another study ([Lippy et al., 2020](#)) in the *Journal of Family Violence* examined the impact of mandatory reporting on help-seeking behaviors among victims of intimate partner violence (IPV). The study used a mixed methods approach that analyzed data obtained from a survey of more than 3,000 survivors of domestic violence ([p. 257](#)). The authors excluded responses from participants under the age of 18 “to reduce the risk that participants described experiences of seeking help for violence other than IPV (e.g., child abuse)” ([p. 257](#)). In analyzing the results of the survey responses, the authors found that 35% of respondents did not seek help “because they feared their information would be reported to an official or authority figure” ([p. 260](#)). A major fear reported by respondents, especially women, was that seeking help would lead to involvement with CPS and their children being taken away ([p. 261](#)). Tragically, this fear ended up being realized for several survey respondents, with one reporting that CPS “removed my children from my home and charged me with allowing domestic violence to happen to me” ([p. 264](#)).

The discrepancies in the accuracy of reports made by professionals versus nonprofessionals are understandable considering that many professionals are trained to recognize child maltreatment and understand what legally constitutes child abuse or neglect, while nonprofessional reporters often have no such training ([Cecka, 2015, para. 4](#)).

### **Anonymous Reporting**

Just as states have criminal penalties for mandatory reporters who fail to report suspicions of abuse or neglect, 29 states and Puerto Rico make it a crime to willfully or intentionally file a false report of child abuse or neglect ([CWIG, 2019c, p. 3](#)). Although every individual is a mandatory reporter in the state of Texas, not all people are aware of their legal obligation to report child abuse or neglect. According to DFPS, “If [a person is] not sure whether to report, DFPS encourages [the person] to call immediately and ask” ([DFPS, n.d.-b, “Report Even When in Doubt” section](#)). Individuals who intentionally submit a false report of child abuse or neglect in Texas can be charged with a state jail felony or—if the person who submits the report is a repeat offender—a third degree felony ([Texas Family Code, Section 261.107](#)). Enforcement of these prohibitions, however, is complicated by laws that allow reporters to remain

anonymous, leaving the child welfare agency without their name and contact information.

Approximately 19 states “require mandated reporters to provide their names and contact information” ([CWIG, 2019b, p. 4](#)) at some point when reporting allegations of child abuse or neglect. Texas is not one of these states and allows for anonymous reports. Texas Family Code, [Section 261.304](#), requires the Department of Family and Protective Services to “conduct a preliminary investigation to determine whether there is any evidence to corroborate the report” whenever it receives an anonymous report. If the preliminary investigation fails to find “some evidence to corroborate the report of abuse,” Texas law prohibits DFPS from conducting a more in-depth investigation or taking action against the alleged perpetrator named in the anonymous report ([Section 261.304\(c\)](#)).

Anonymous reporting is particularly problematic due to the difficulty of obtaining sufficient corroborating evidence and the opportunity it provides for some people to submit intentionally false or malicious reports. During fiscal year 2019,<sup>4</sup> there were more than 4.3 million calls to CPS hotlines nationwide ([Children’s Bureau, 2021, p. 8](#)). Of these, a little more than 2.3 million were “screened in,” meaning they received an investigation or alternative response ([pp. xiv, 8](#)). The overwhelming majority (68.5%) of screened-in reports come from professional sources, while only 6.5% of all screened-in reports during fiscal year 2019 came from anonymous sources ([p. 9](#)).

Recall that “screened in” only means that the report received an investigation or alternative response from the CPS agency—it does not indicate whether or not the report was ultimately substantiated. Of all the children subject to a screened in report during FY 2019, only 16.7% were ultimately determined to be substantiated victims of the reported abuse or neglect ([Children’s Bureau, 2021, p. 19](#)). Available data suggest that anonymous reports are substantiated at extremely low rates, with one study estimating that only 1.5% of anonymous reports are ultimately substantiated ([Adams et al., 1982, p. 11](#)). Additionally, an analysis of data collected by the National Child Abuse and Neglect Data System (NCANDS) maintained by the U.S. Department of Health and Human Services, Children’s Bureau, indicates that anonymous reports are screened out at much higher rates. In 2019, among jurisdictions that allow for anonymous reporting, reports of suspected child abuse and neglect were screened out at a rate of 8.39 reports

<sup>4</sup> Although FY 2020 data was published in January 2022, the disruption caused by the COVID-19 pandemic and government responses renders this data unreliable for the purposes of this paper. For this reason, we are utilizing the 2019 report as it represents the most recent “typical” year for child welfare agency operations.



per 1,000 people ([National Data Archive on Child Abuse and Neglect \[NDACAN\], 2019](#)). This rate drops dramatically in jurisdictions that do not permit anonymous reports, with only 2.88 reports per 1,000 people being screened out. These rates suggest that prohibiting anonymous reporting could lead to greater accuracy in reports received, which could, in turn, allow child welfare agencies to devote more time and resources to protecting children who are in imminent danger of harm.

In addition to the low substantiation rates associated with anonymous reporting, the practice is also ripe for abuse by malicious actors. The true number of intentionally false reports filed every year is difficult to come by, making it challenging to quantify the true scope of the problem. This is due, in part, to inconsistent reporting from states ([Cecka, 2014, p. 70](#)). While the Children's Bureau includes data on intentionally false reports in its annual *Child Maltreatment* report, fewer than 10 states consistently report data on this metric ([Children's Bureau, 2021, p. 30](#)). In spite of this lack of easily accessible data, researchers like Cecka have attempted to shed more light on the problem. Citing anecdotal evidence and studies examining false reports related to sexual abuse and made in the context of divorce and custody battles, Cecka hypothesizes that the problem may be more widespread than official data indicates ([Cecka, 2014, p. 70](#)).

However, intentionally false reports are not limited to child custody proceedings and have even been used in Texas for political purposes. During the 2016 Republican primary, an operative linked to the reelection campaign of Fort Worth state Rep. Charlie Geren filed an anonymous report with CPS against Geren's primary challenger, Bo French ([Lieber, 2019](#)). Rep. Geren was not aware that the report was made, nor did he authorize it. The night the report was made, CPS investigators showed up at the French residence while Mr. French and his wife were attending a fundraiser for the campaign ([Plaintiff's original petition, 2017, p. 8](#)). The French children were being supervised by their grandparents at the time, who did not allow the investigators to interview the children. Still, they did permit them to visually inspect the children for injuries. Following the visit from CPS, the Frenches took their children to a pediatrician for further examination to confirm that they had not been abused and were visited by CPS two more times before the allegation was ultimately dismissed without further action. Although the report was filed anonymously, the Frenches were able to ascertain the reporter's identity by filing legal action seeking to depose two of Rep. Geren's campaign staffers. In his response to the lawsuit, Geren's campaign consultant David Sorensen "tacitly self-identified as the

person who made the false CPS report" ([p. 10](#)). Ultimately, the Frenches successfully held Sorensen accountable and secured an apology from him as part of the settlement of a defamation suit, but only after spending a reported \$150,000 in legal fees ([Lieber, 2019](#)). The French case is just one high-profile example illustrating how easily the allowance for anonymous reports under Texas law can be leveraged to weaponize the child protection system and the difficulty of holding malicious actors accountable.

Proponents of anonymous reporting argue that it is necessary to ensure callers' safety and encourage them to report suspicions of abuse or neglect ([Riley, 2021](#)). However, this position overlooks the problems with anonymous reporting and fails to acknowledge the robust confidentiality protections for reporters required by federal law. CAPTA requires that every state maintain the confidentiality of child abuse and neglect reports, including the identity of the caller and those involved in the allegation, except in minimal circumstances ([42 U.S.C. § 5106a\(b\)\(2\)\(B\)\(viii\)-\(xi\)](#); [CWIG, 2017b, p. 2](#); [Children's Bureau, 2014](#)). For example, [Texas Family Code, Section 261.201](#), ensures "a report of alleged or suspected abuse or neglect ... and the identity of the person making the report" remain confidential and are only disclosed for a limited number of reasons, such as when disclosure of the confidential information is "essential to the administration of justice" ([Section 261.201\(b\)\(3\)\(A\)](#)) and to protect the life and safety of a child ([Section 261.201\(b\)\(3\)\(B\)](#)).

Filed during the 87th Texas Legislature, House Bill 1098 ([2021](#)) sought to prohibit DFPS from accepting anonymous reports relating to child abuse or neglect. However, HB 1098 failed to become law in Texas.

### Providing an Alternative to CPS Hotline Calls

When first describing the battered-child syndrome, Kempe provided guidance on which professionals should be required to report suspected child abuse or neglect and to whom a report should be made. Texas' mandatory reporting laws are inconsistent with Kempe's vision for handling child maltreatment in two ways: the state of Texas has a uniform reporting requirement for any person within the state, and Texas' legislative requirements for reporting suspected child abuse or neglect nearly always lead to state intervention in the family. Whereas everyone in Texas is a "mandatory reporter," Kempe envisioned only certain classes of professionals to be mandatory reporters of child abuse or neglect. Additionally, Kempe ([1962/2013](#)) recognized that while government intervention is sometimes necessary to ensure the protection of children, government services should not be the go-to remedy for any concerns a reporter may have. Instead, Kempe encouraged physicians to be acquainted

“with the facilities available in private and public agencies that provide protective services for children” ([p. 36](#)).

Unfortunately, state mandatory reporting laws and policies—especially those that carry criminal penalties for failure to report—have created an environment in which individuals who have concerns for a child’s well-being are reduced to being passive actors whose only role is to file a report with CPS rather than providing families with support and assistance that could help them stay together. This is exacerbated by broad legal definitions of “neglect” employed by many states that place families whose struggles are rooted in poverty at higher risk of CPS involvement ([Pressley, 2020, p. 2](#); [Milner & Kelly, 2020](#)). As a result, concerned individuals may feel compelled to call CPS when faced with a child whose family lacks access to necessities or services.

In addition, as a report by Casey Family Programs points out, child protection systems are reactive in nature, and “CPS hotlines are not equipped or designed to effectively deal with the overwhelming number and variety of underlying conditions presented in the reports they receive” ([Casey Family Programs, 2020, p. 2](#)). Providing an alternative to CPS reporting for certain low-risk or less severe cases would help reduce CPS caseloads by routing those cases to other service providers outside the child welfare system and enabling families to access the services they need to achieve stability without the trauma of CPS involvement.

Alternatives to full-scale involvement with CPS are nothing new. In 2010, Congress passed the CAPTA Reauthorization Act of 2010, which included the requirement that states develop and implement alternative response processes—also called differential response—in child protective investigations ([CAPTA Reauthorization Act, 2010, p. 10](#)). Alternative response allows CPS systems to resolve low- and moderate-risk cases outside of the traditional investigation process ([CWIG, 2020, p. 2](#)). Alternative response is intended to provide a less traumatic intervention focused on helping families “develop skills and connect with existing community resources like mental health services, substance abuse counseling, and parenting education” ([Logan & Huntzinger, 2018, p. 1](#)). Under the Texas alternative response program, families bear primary responsibility for “com[ing] up with their own solutions and identify[ing] possible resources and supports” ([p. 3](#)). While having alternative response as a tool available to CPS caseworkers is a positive development, it still operates through the traditional child welfare system and only becomes an option after a report is made to CPS. What is truly needed is a system that provides support and services to families and

is entirely community-driven and separate from the child welfare system.

As discussed previously, fear of involvement with the child welfare system significantly reduces help-seeking behaviors among at-risk families ([Lippy et al., 2020, pp. 260–61](#)). This hesitancy is understandable, given that the system is empowered by law to permanently separate children from their families. Then, increasing help-seeking behaviors requires an approach that removes this fear from the equation. Fortunately, the infrastructure for creating such a system is already well-established. One of the most widely available resources that can be leveraged for this is the 2-1-1 “helpline” established and supported by the United Way ([United Way, n.d.](#)). The 2-1-1 system connects users with a local call center that can refer them to supportive services available in their community ([Federal Communications Commission, 2019](#)). Resources available for referral include basic needs, like food and clothing, employment support, physical and mental health resources, and child care. A number of states, including Louisiana, Florida, New Hampshire, Idaho, and New York, have begun incorporating 2-1-1 or similar helpline services into their foster care prevention and family preservation strategies ([Casey Family Programs, 2020, pp. 2–4](#)). For many families at risk of child welfare involvement, accessing the services and support available through helplines like 2-1-1 can mean the difference between their child remaining in the home or entering foster care.

Unleashing the power of community-based supportive services to prevent child maltreatment will require states to rethink their approach to reporting. Amending state laws that make CPS hotline calls the default response is a good place to start. Reporters should be given the option to meet their reporting requirement by working with low- and moderate-risk families and directly connecting them with supportive services or independent, community-run helplines. This would not only aid families in identifying and obtaining supportive services—something they would be responsible for if their case were referred to a CPS alternative response program—but also allow them to do so without the added stress and trauma of an investigation.

For professional mandated reporters, training on how to distinguish between appropriate cases for referral to helplines or community-based services and those that should be referred directly to CPS could easily be incorporated into existing mandated reporter training. Federal law requires each state plan to describe “the training to be provided under the grant for individuals who are required to report suspected cases of child abuse and neglect” ([42 U.S.C. 5106a\(b\)\(2\)\(D\)\(iii\)](#)). According to Texas’ state plan for



CAPTA funding, a broad range of training is provided to state and local government employees whose work involves child welfare services or juvenile justice, foster and adoptive parents, and higher education students (DFPS, 2020c). However, the training requirement does not apply to every individual, even though every individual is a mandatory reporter in Texas. Making reporters aware of resources available in the community to help struggling families and giving them the freedom to use their informed judgment on whether to call CPS or a helpline provides another tool for helping families fill their unique needs. In addition, a well-developed system based on these principles can aid in reducing the number of unsubstantiated reports to CPS and better focus its resources on responding to high-risk cases.

### Conclusion and Policy Proposals

Since 2010, approximately 40% to 50% of all reports to Texas's abuse hotline are screened out, as they have not included an allegation of abuse or neglect that falls within the jurisdiction of DFPS. The mandatory reporting requirement for every individual in Texas and the state's allowance of anonymous reporting increases the likelihood that inaccurate or even intentionally false reports will be filed, which wastes time and resources that are better directed toward responding to cases of children in actual danger.

The state of Texas should amend its mandatory reporting requirements relating to child abuse or neglect and only require certain classes of professionals to make a report. Texas currently requires that anyone who suspects or has knowledge of child abuse or neglect make a report. However, nonprofessional reporters often lack the training

necessary to identify cases of child abuse or neglect. The lack of expertise related to child maltreatment awareness inherently leads to a higher rate of unsubstantiated claims from nonprofessional reporters.

### Recommendations

1. The state should abolish the anonymous reporting of child abuse and neglect by requiring reporters to provide their names and contact information when making a report to a state agency or law enforcement. This information should remain confidential and not be subject to public disclosure as required by current law.
2. Mandated reporters of child abuse or neglect should be allowed to fulfill their legal reporting obligation by referring struggling families to an appropriate supportive resource independent from DFPS. Appropriate referrals may include services provided by a helpline, nonprofit organization, faith-based organization, or another community-based provider. Mandated reporters should also receive training on alternatives to CPS hotline calls and how to identify appropriate circumstances for referral to helplines or other community-based services.

By reforming laws related to reporting requirements, the Texas Legislature can better ensure that state interference in the family only occurs when necessary. The discussed reforms will save time and money and strengthen relationships between professionals trained to recognize child maltreatment and community-based partners. ★

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## Notes

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