



Foster Care Prevention

Testimony before the Senate Committee on Health and Human Services

by Brandon J. Logan, J.D., Ph.D.

KEY POINTS

- Through passage of the Family First Prevention Services Act (FFPSA), the federal government prioritized keeping children with families and out of foster care.
- Fewer children in Texas are victims of abuse or neglect. Yet more children in Texas are victims of the system through forced separation from parents.
- Voluntary family preservation services, not removal, are the appropriate intervention when a child has experienced neglect but is not in imminent risk in his or her home.
- Family preservation services should be delivered by community nonprofit agencies through a public-private framework.

Chairman Schwertner and Members of the Committee:

My name is Brandon Logan, and I am the director of the [Center for Families and Children](#) at the Texas Public Policy Foundation, a nonprofit, nonpartisan think tank based here in Austin. Prior to my current position, I was an attorney ad litem for children under the care of the Texas Department of Family and Protective Services (DFPS) for over a dozen years. I have represented hundreds of children throughout Texas. I am certified as a Child Welfare Law Specialist by the [National Association of Counsel for Children](#). I also represented parents under investigation by DFPS and whose children had been removed by DFPS.

I would like to thank you for this opportunity to testify on the CPS interim charges before the committee. The Family-Based Safety Services (FBSS) stage of service presents an opportunity to safely divert children from foster care and keep them with their families. Serving cases of marginal risk in FBSS will free up crucial family foster homes and intensive services for children who need them most. I will begin with my specific recommendations, which are more fully explained below.

Recommendations:

1. Limit removal to cases of immediate danger to physical health or safety, in which state intervention is less detrimental than the status quo.
2. Expand voluntary use of Family-Based Safety Services (FBSS) in cases of marginal risk.
3. Transfer primary responsibility for FBSS from DFPS to local nonprofits as part of the community-based care model.
4. Reallocate prevention spending from general prevention programs to targeted foster care prevention that diverts identifiable children from foster care through individualized family services.

Through passage of the Family First Prevention Services Act (FFPSA), the federal government prioritized keeping children with their families and out of foster care. The federal government provided a new pool of limited matching funds for that purpose. Whether or not Texas decides to take advantage of this new federal funding stream, it should reallocate funds from general prevention to targeted foster care prevention. Doing so will allow the state to meet its matching funds and maintenance of efforts requirements under FFPSA without increasing overall spending.

Family-Based Safety Services

Family-Based Safety Services are intended to keep children safely with their parents, or to return children home after a short voluntary separation, by increasing the resources of parents and decreasing threats to children’s safety ([DFPS 2018c](#)). FBSS exists in the space between investigations of families by Child Protective Services (CPS) and forceful removal of children from those families.

Approximately 19 percent of CPS’s resources are committed to the FBSS stage of service ([TSG, 50](#)). In FY2017, FBSS served 98,730 children and 35,725 families ([DFPS 2018](#)). That same year, only 5,068 children entered CPS custody from open

FBSS cases (DFPS 2018). Five-year recidivism is at its lowest point in a decade, with 16.8 percent of children served by CPS experiencing maltreatment within five years (DFPS 2018). Twelve-month recidivism for FBSS is 11.4 percent, which is comparable to recidivism for families subjected to forced separation.

The CPS investigator refers families to FBSS if there is an “unresolved danger indicator” (DFPS 2018b). Families undergo a strengths and needs assessment to determine appropriate services, which may be provided through DFPS contract or community services. Eighty percent of FBSS cases are closed following measurable reduction of the risk to children in the home (TSG, 105).

The FBSS website lists a litany of services allegedly provided in this stage of services (i.e., parenting skills, housekeeping skills, nutrition and health information) (DFPS 2018c). Based on data publicly available, it is difficult to determine the nature and extent of services provided to children living at home. The total biennial budget for CPS-purchased services is \$78 million, divided between children in FBSS and those in foster care. With a biennial budget of \$143 million, the most widely utilized service in FBSS seems to be protective daycare.

FBSS as an Alternative to Removal

The number of children removed from their homes by CPS continues to increase (Figure 1). The total number of removals increased 18.1 percent from November 2016 to November 2017. At the same time, fewer children are exiting care. In 2016, 3 percent more children entered care than exited. In

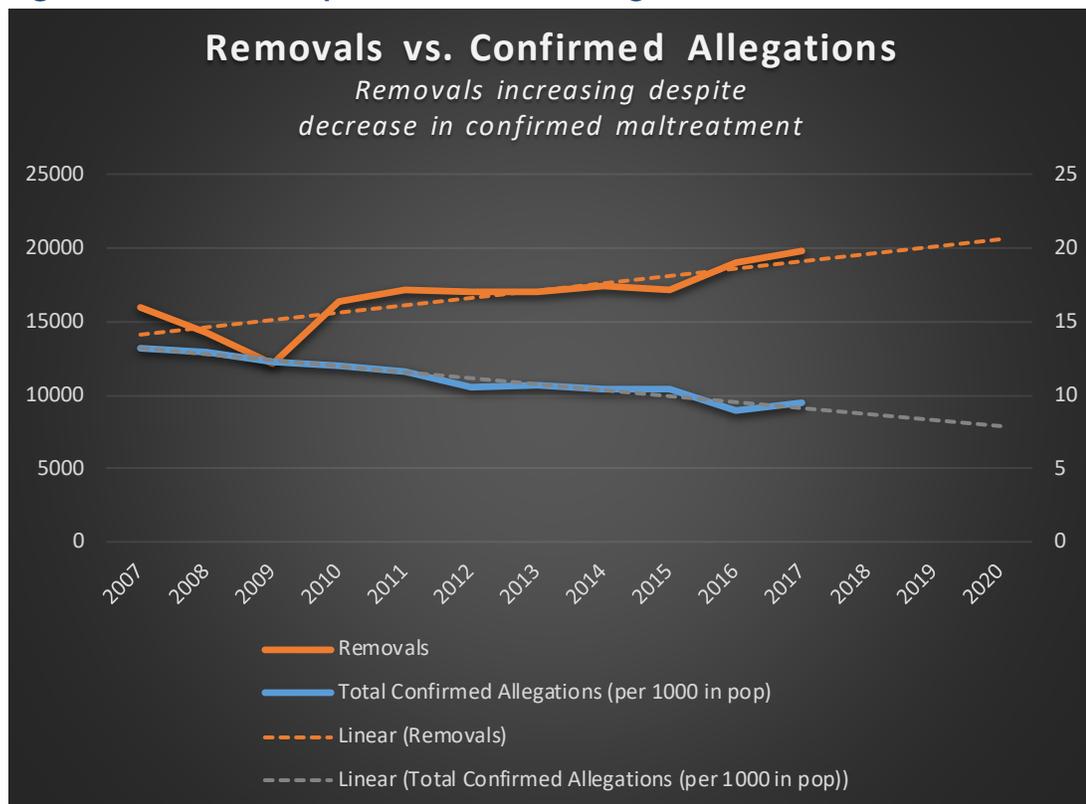
2017, 5 percent more children entered care than exited.

Paradoxically, the total rate of maltreatment in Texas is lower, continuing a downward trend over the last decade (Figure 1). Fewer children in Texas are victims of abuse or neglect. Yet more children in Texas are victims of the system through forced separation from parents.

The most recent uptick in removals seems related to implementation of the Structured Decision Making (SDM) model—particularly the safety and risk assessment instruments. SDM was an attempt to reduce the subjective decision-making in removals by utilizing a uniform, actuarial assessment in all investigations (DFPS 2016a). After a period of decreasing interventions, CPS experienced an increase in investigations opened for services following implementation of SDM (DFPS 2016b, 15). November removals had been decreasing from 1,328 in 2011 to 1,123 in 2015. However, CPS recorded 1,421 removals in November 2016 and 1,678 in November 2017.

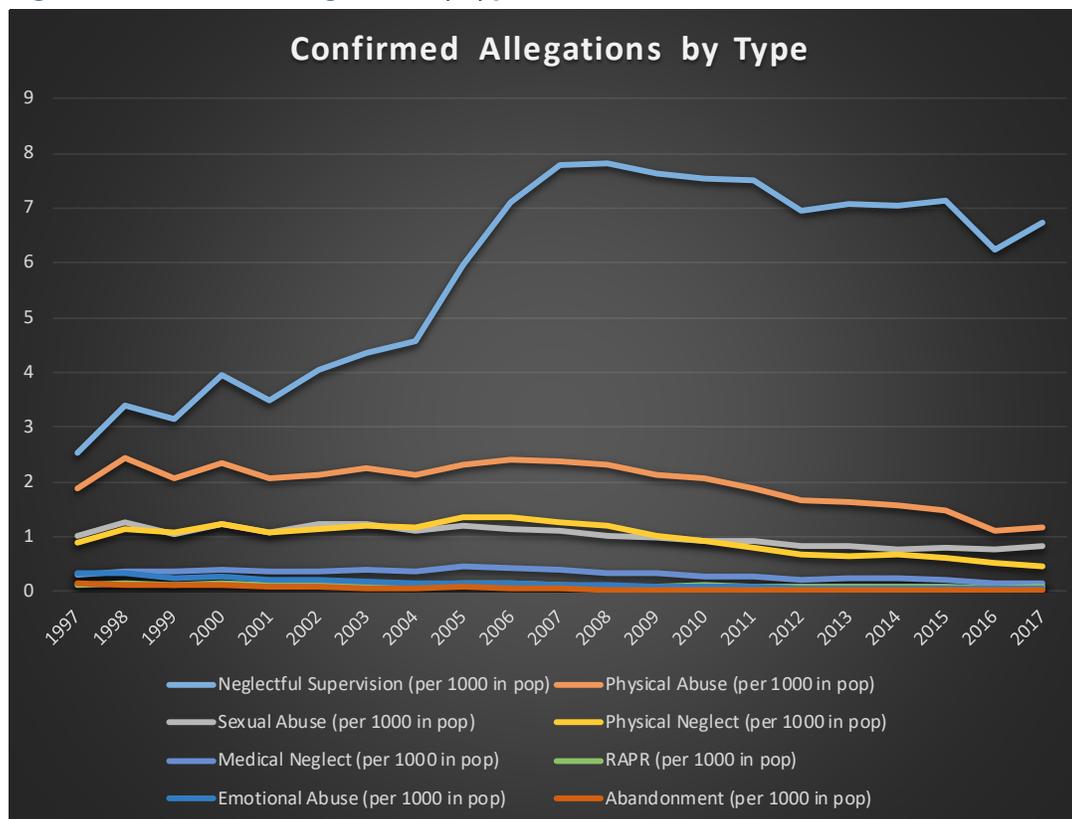
More than a number, each removal represents a child whose life course has been dramatically altered. Separation from parents is never a benign event for children. Research demonstrates that separating a child from a parent for even a relatively short time can have a devastating emotional and physical impact on the child (Logan 2017). Removal and foster care placement leads to long-term negative outcomes for children. Removal of children from their homes and separation from family affect children’s ability to form relationships in the future.

Figure 1. Removals compared to confirmed allegations



Source: DFPS Data Book.

Figure 2. Confirmed allegations by type



Source: DFPS Data Book.

A study linking children in Cook County, Illinois, across a wide range of government programs compared children placed in foster care with other children who were investigated for neglect or abuse but not removed (Doyle 2007). It found significant differences in long-term outcomes between the groups, including juvenile delinquency, teen motherhood, employment, and earnings. Children removed from home and placed in foster care fared worse than their counterparts who suffered neglect or abuse but who were not removed. The results point to better outcomes when children at marginal risk remain at home.

Data on the reasons CPS removes children from their homes are not available. It is likely that CPS does not track the reasons it removes children from their homes. However, data on confirmed allegations indicate the increases in removals are cases of marginal risk. All forms of maltreatment in Texas have decreased over the past two decades except neglectful supervision (Figure 2). Neglectful supervision means “improper supervision of a child left alone which could have resulted in substantial harm” (DFPS 2018e). Neglectful supervision constitutes almost 70 percent of all confirmed maltreatment in Texas (DFPS 2018).

The standard for removal in cases of neglect is lower than for cases of physical abuse. CPS may obtain an emergency order placing a child in state custody without notifying parents and without a hearing when probable cause exists that “there is an immediate danger to the child’s physical health or safety, or the

child has been the victim of neglect ...” (CPS 2018b, 5411.11, emphasis added; see also Tex. Fam. Code 262.101, 262.102). To secure a removal, CPS is only required to prove that the child experienced neglect in the past, not that the child is at immediate (or remote) risk of harm now or in the future.

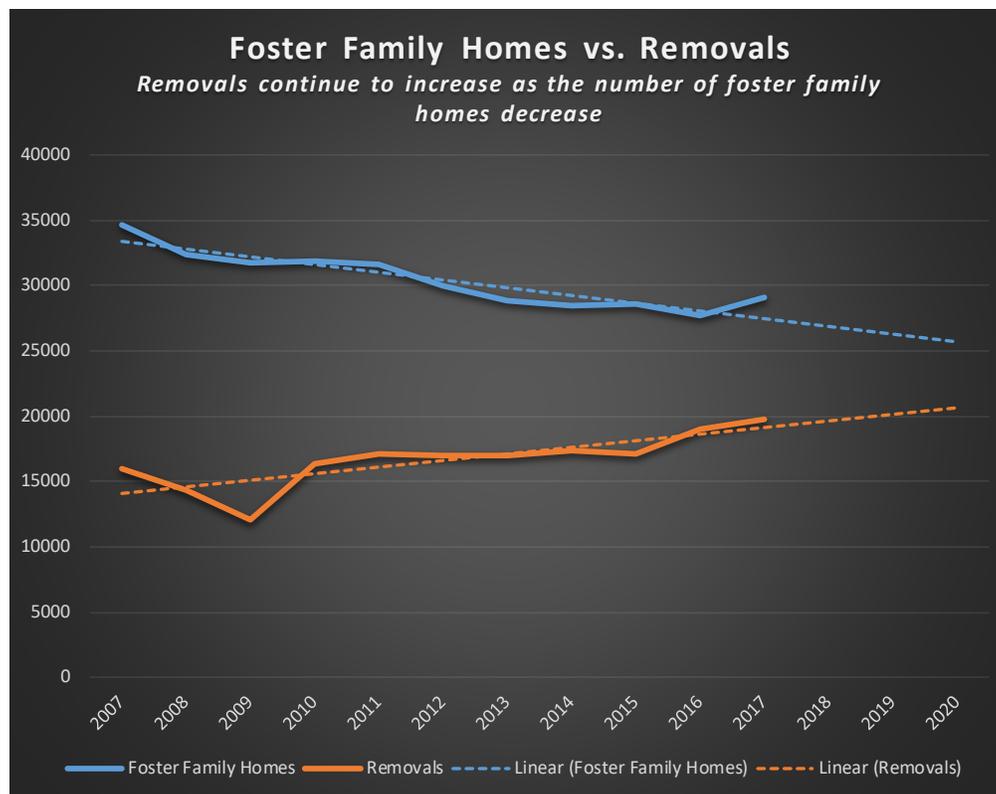
Voluntary family preservation services (i.e., FBSS), not removal, are the appropriate intervention when a child has experienced neglect but is not in imminent risk in his or her home.

The Role of FBSS in Foster Care Capacity

Like many states, Texas is experiencing a foster care placement shortage. The shortage is most acute for foster family homes—family-like, noninstitutional placements in single-family homes. The number of foster family homes has steadily declined for the last decade with the notable exception of 2017, which reported a 4 percent increase (Figure 3). However, during the same period, the number of children in foster care increased by 4 percent, offsetting any gain in homes.

Some advocates claim Texas is a “low removal state,” when compared to others. This might be true but does not mitigate the fact that the Texas removal rate is untenable. With fewer homes, more children are ending up in congregate care.

The state’s reliance on congregate care will become increasingly difficult in light of the Family First Prevention Services Act (FFPSA), part of Division E in the Bipartisan Budget Act of

Figure 3. Removals compared with foster family homes

Source: DFPS Data Book

2018 ([H.R. 1892](#)) signed by President Trump on February 9, 2018.

Under FFPSA, a child placed in congregate care will be ineligible for Title IV-E funds (the bulk of CPS funding) after 3 weeks, except in very limited circumstances. The majority of children in congregate care in Texas would be ineligible under FFPSA. FFPSA offsets the loss of Title IV-E funding for congregate care with a new funding stream for foster care prevention.

FBSS as Foster Care Prevention under FFPSA

Among other changes, FFPSA expands federal support for services to prevent children from entering foster care. The Congressional Budget Office (CBO) estimates that these FFPSA provisions would increase federal spending over 10 years (FY2018-FY2027) by \$1.480 billion—providing an average potential funding pool of \$148 million per year for states ([Stolzfus 2018](#)).

States may begin receiving FFPSA funds for foster care prevention in October 2019, but receipt of the funds is optional. Participating states must include foster care prevention services and programs in their Title IV-E plan ([CDF](#)). Federal funds will reimburse states 50 percent of the expenditures for foster care prevention services and programs through 2026, after which federal participation will equal the Federal Medical Assistance Percentage (FMAP) ([CDF](#)). The Texas FMAP is currently 56.88 percent.

Not all prevention services are eligible for FFPSA funding.

Rather, FFPSA funding is only available to children at imminent risk of entering foster care, their parents and kin caregivers, and to pregnant or parenting foster youth ([CDF](#)). Services to prevent foster care entry must be provided under a written prevention plan ([CDF](#)).

If Texas elects to receive FFPSA foster care prevention funds, related programs and services will be delivered at the FBSS stage of service (**Figure 4**). Currently services provided in FBSS do not meet evidence-based standards and would not qualify for federal matching funds. Reimbursed services must be “promising, supported, or well-supported practice.” Pending federal guidance on FFPSA, expected October 2018, reference may be made to the California Evidence-Based Clearinghouse for Child Welfare ([CEBC](#)) for programs and services that likely qualify for reimbursement.

FFPSA includes a maintenance of efforts provision, requiring the state to continue current “foster care prevention expenditures” from Title IV-B, TANF, SSBG, and other state sources ([CDF](#)). States cannot replace current foster care prevention spending with the new Title IV-E funding ([CDF](#)).

Texas currently spends over \$200 million in general prevention programs in the Prevention and Early Intervention (PEI) division of DFPS. PEI funds a multitude of programs intended to accomplish a myriad of goals including school readiness, juvenile delinquency prevention, and parenting efficacy ([PEI 2017](#)). Unlike FFPSA services, none of the current PEI programs are intended to prevent foster care entry and

should be excluded from required state foster care prevention expenditure reporting under FFPSA ([H.R. 1892, 378-379](#)).

Because current PEI funding does not include foster care prevention, a portion of the \$200 million in PEI funding may be reallocated to foster care prevention to offset the state match required by FFPSA without increasing overall spending.

Even if Texas decides not to participate in the FFPSA foster care prevention funding scheme, the state should consider shifting appropriations from general prevention programs of unknown value to FBSS programs that divert identified children from foster care. Such programs offer better dollar efficiency and more closely align with the proper role of government.

Foster Care Prevention Services in the Community Setting

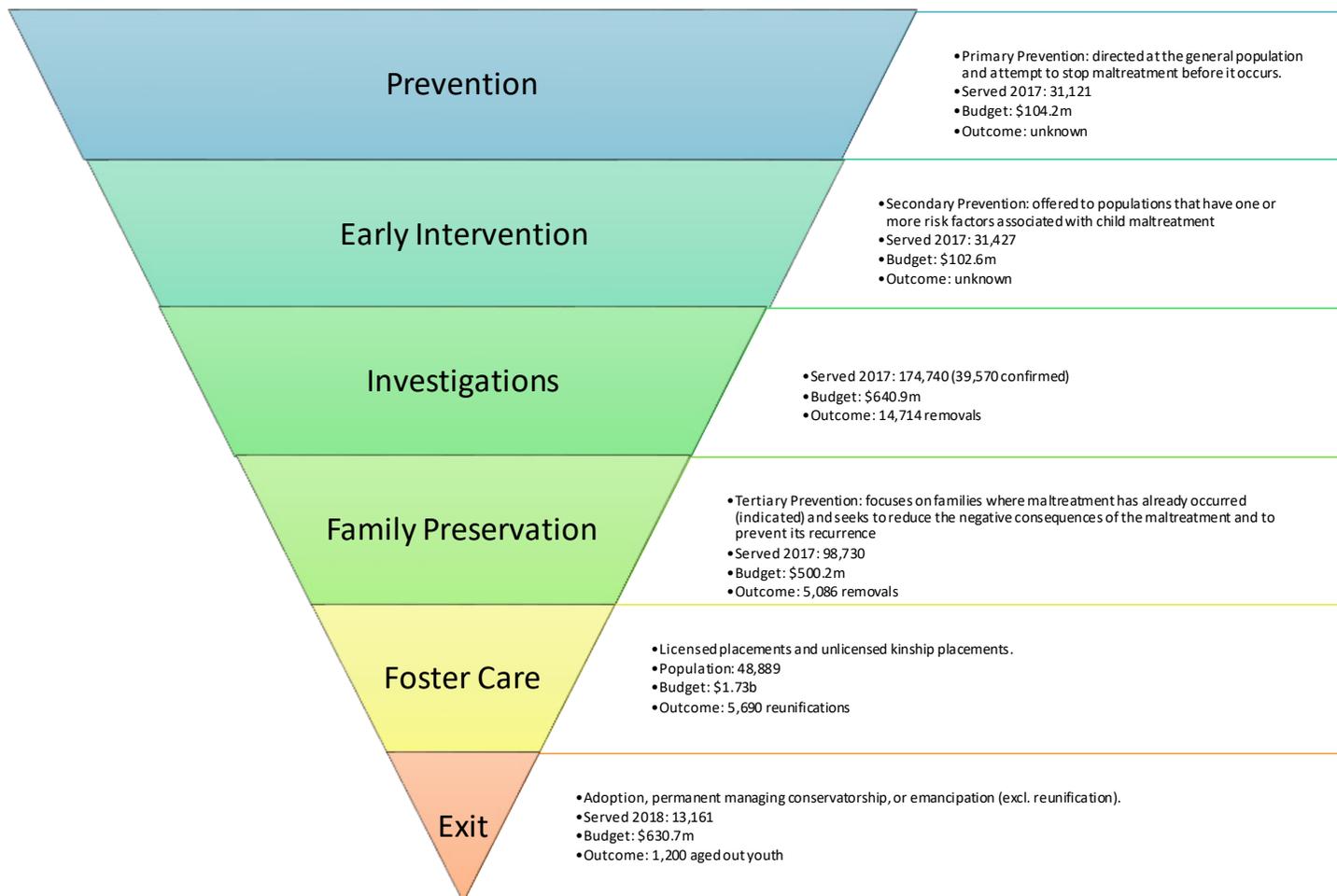
The 85th Legislature created a community-based FBSS pilot as part of the CPS reforms in Senate Bill 11. Beginning March 1, 2018, the FBSS pilot launched in Brewster, Culberson, El Paso, Hudspeth, Jeff Davis, and Presidio counties, with services

provided by Pathways Youth and Family Services ([DFPS 2018d](#)). Pathways has accepted approximately 50 families into the program, called HomeSafe. HomeSafe utilizes specific, evidence-based interventions to prevent foster care entry.

It is too early to draw conclusions from the FBSS pilot. However, community-based family preservation services have a rich history of success (Kinney et al. 2017). Families are less resistant to supports provided by community members unaffiliated with government child protective agencies. Community providers are able to take advantage of existing services, including faith-based services, that best meet the needs of families. Community wraparound services not provided under time-limited government contracts are more likely to become part of a family’s ongoing system of support.

The state should expand provision of FBSS under the public-private framework. The state should consider making family preservation services in FBSS part of the continuum of care provided by single-source continuum contractors in the community-based care model being implemented statewide. ★

Figure 4. CPS levels of intervention



Source: DFPS Data Book, Texas General Appropriations Act 2018-2019

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About the Author



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Dr. Logan has also represented parents, grandparents, and foster families in custody and adoption cases across the state.

Dr. Logan earned his undergraduate degree from Texas A&M University and his law degree from Texas Tech University. He holds a doctorate in human development and family studies from Texas Tech University, where he also taught courses in child welfare policy and family dynamics. His academic work includes child maltreatment, abuse trauma and treatment, and family and father engagement.

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