

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION

M.D., b/n/f Sarah R. Stukenberg, et al.,)

Plaintiffs,)

v.)

GREG ABBOTT, in his official)

capacity as Governor of the State of)

Texas, et al.,)

Defendants.)

Civil Action No. 2:11-CV-00084

A Compilation of Citations to the Trial Record Regarding Special Master
Recommendations

Item 1: When DFPS staff visit or call a foster child, the caregiver must allow the staff member and the child to speak privately, unless the staff member agrees that it would be unsafe. If the meeting was not conducted in private, the staff must explain why in the child’s case files.

There is extensive evidentiary support in the record for the various reforms recommended by the Special Masters to address this Item EMin the Court’s Memorandum Opinion and Verdict including, but not limited to, the following:

Document	Quotes
12.04.14 Sharp Direct, at 167:8-20	Q “I remember staying at a center called the “Nelson Center” in Denton, Texas and I was there for, like, a year and a half. That was one of my longest placements and I’ve seen an ICU worker two or three times, I think. It was a different one each time but I remember her coming in and seeing all of us kind of in a group, all the people who are from, like, the region or whatever. And I remember her explaining she was kind of like a surrogate.” Q “So you didn’t -- did you ever spend any private time with her?” A “Oh, no. She came and seen us all in groups. There was usually a staff member from the Nelson Center there and it was very quick.” (Sharp Direct, 167:8-20)
12.04.14 Sharp Direct, at 169:5-170:2	Q “And you assaulted by -- not by name but by what category of person?” A “One of the staff, one of my caregivers but also by my peers, too. It was common, you know, in those type of settings for stuff like that to happen and it wasn’t -- certainly wasn’t unique to the Nelson Center and it wasn’t unique to me. I found out towards the end of my stay at the Nelson Center that there were other young boys who had also been raped by this caregiver. And the challenging part about this is that we

	<p>never had an opportunity to report and, I mean, when you have someone who is monitoring you every day and your access to the outside world is so restrictive, you do not have the opportunity to report these things and it just -- it wasn't -- it wasn't going to happen. In fact, I can remember being on the phone with my worker sometimes and him being right there." Q "The man who raped you?" A "Yeah, yeah. And I remember thinking that even if I did get the chance to tell somebody about these things that nobody would believe me. Nobody certainly would do anything. I'd have to stay here and I'd probably -- it'd probably happen to me even more because then he would maybe find out and then nothing would happen and I'd have to continue to deal with it." (Sharp Direct, 169:5-170:2)</p>
<p>PX50, Child Protective Services Handbook, "4132 Pre-Placement Visit," at PLTF0078825</p>	<p>"When the visit is concluded, the caseworker speaks with the child away from the substitute caregiver's home or facility. The only people present for this conversation are the caseworker and the child so that the child can freely express his or her thoughts and feelings, as well as discuss any problems that he or she might have with the placement." (DFPS, PLTF0078825)</p>
<p>12.03.14 Bentley Direct, at 67:8-24</p>	<p>Q "To your knowledge were there any investigations that you were aware of with regard -- following up on any of those instances in which you had visible bruises?" A "No. I'm pretty sure there was, but there were points in times where they wouldn't find out exactly what happened until they moved me to another home. Like I was put in a home, I was abused, when I -- my mama cousin, where he raped me, they couldn't get a clear story out of me when it happened because once again, when I was in the hospital and they were investigating, there was my aunt and my cousin right there with me, looking at me while they're asking me what happened. And so I never said anything. But then I went to another home and they threatened to send me back and that's how they got the truth out of me is because when they threatened to send me back, I was like, no, no, don't, I don't want to go. And they were like, why? And then I told them everything, and even still nothing was done." (Bentley Direct, 67:8-24)</p>
<p>12.02.14 B. Miller Cross, at 55:18-25</p>	<p>Q "Did you ever have a situation where you found that the ICU worker wasn't telling you -- what the ICU worker was telling you was not correct?" A "Yes." Q "And what was that?" A "They [I See You Workers] were not spending that much time with the child and they were not talking with the child privately to know that there were underlining [sic] issues between the child and the foster placement." (B. Miller Cross, 55:18-25)</p>
<p>12.03.14 Bentley Direct, at 64:3-65:7</p>	<p>THE COURT: "When you told them about -- were you able to tell them about the sexual abuse or did you not want --" THE WITNESS: "Well, when they would come, a lot of times when they would visit with me, the foster parents--" THE COURT: "Were right there." THE WITNESS: "-- and my abuser was -- would be</p>

right there, so it would be kind of hard to tell them what was going on. And there were times where I would hint at abuse, but it was like I couldn't really explain; and if I did hint at abuse and my foster parents or my abuser was right there, the abuse would continue after the CPS worker left. So -- and I don't necessarily think that the caseworkers knew what signs to look for, you know, when asking a child if they're being abused right in front of their abuser. So -- yeah.” BY MS. LOWRY: Q “Did you feel that there were any caseworkers that you could confide in for your safety?” A “No.” Q “Do you remember any of the visits in particular?” A “I do remember when I was eight years old, I was in a home getting ready to be adopted by a family. So I guess I would I still be considered a foster child because it was never finalized. But I was being abused by my aunt's adopted son. He was raping me. And there were times where -- or there were times where the -- I would try to tell the caseworker when they would come and visit and I would not be able to really say anything because they were right there like in my face and it was like, oh, well, is anything going on in the home? And I'm like looking, like no. Like I didn't really know how to answer them without feeling intimidation.” (Bentley Direct, 64:3-65:7)

Item 2: DFPS paperwork and electronic filing system, including IMPACT, CLASS, and the External files, must become more efficient. Each child should have a readily accessible and organized case file, comprised of all records pertaining to that child. The Court was routinely frustrated at the disorganization, duplication, and inconsistency in the foster children’s case files. Caseworkers should be able to spend more than 26% of their time with foster children.

There is extensive evidentiary support in the record for the various reforms recommended by the Special Masters to address this Item in the Court’s Memorandum Opinion and Verdict including, but not limited to, the following:

Document	Quotes
PX885, Texas Department of Family and Protective Services, “Legislative Appropriations Request for Fiscal Years 2014 and 2015,” at DFPS0056647 72	“With increasing caseloads, it is vital that automation keep up with the programmatic needs it supports. Upgrades to the applications contained in the agency’s automated casework systems- IMPACT and CLASS- are anticipated so that they remain current and consistent with state and federal laws and agency policies. IMPACT (Information Management Protecting Adults and Children in Texas) is a web-enabled system that provides complete casework management for reported cases of abuse and neglect. It serves CPS, APS, and the investigation function of CCL. CLASS (Child Care Licensing Automated Support System) is a web-enabled system that is designed to track all pertinent information about regulated child care operations and agencies and supports the effective delivery of child care licensing activity. Applications on these two casework systems support the mobile technology needs of tablet PCs used by CPS, APS, and CCL. The legislature has made DFPS’ workforce highly mobile, allowing it to carry higher caseloads than national standards stipulate... These systems must be maintained and

	<p>updated in order for DFPS caseworkers to do even basic job tasks.” (DFPS, DFPS005664772)</p>
<p>PX1995, The Stephen Group “DFPS CPS Operational Review, Phase 1: Recommendations,” at PLTF0069074</p>	<p>“IMPACT is an older technology application and has gotten out of sync with current needs of the front-line caseworkers. DFPS should bring IMPACT up-to-date to support the current policies, practices, and expectations for convenience of a large, frequently used application system. Some of the more significant recommendations are listed below.” (The Stephen Group, PLTF0069074)</p>
<p>PX1995, The Stephen Group “DFPS CPS Operational Review, Phase 1: Recommendations,” at PLTF0069075</p>	<p>“The caseworkers need a faster way to document information into IMPACT. The CVS workers counted over 100 windows they must use to document contact with their children and update on-going visitation information. There needs to be more pre-population of information, similar to the ‘easy’ buttons users have grown to expect on retail websites where there is one box to check to indicate the shipping and billing addresses are the same. These ‘easy’ buttons are needed for populating similar information across all the children in a case and for numerous places where information must be reentered across steps or stages in a case. The caseworkers should always go to IMPACT for any forms they need to use to document the case. Any forms separately stored in DFPS Forms should be incorporated into IMPACT.” (The Stephen Group, PLTF0069075)</p>
<p>PX2021, Daryl Kennedy Chansuthus, “DFPS Residential Child Care Licensing: A Second Review,” at 17</p>	<p>“Finally, in relation to the ‘IMPACT QA—Open Investigations Analysis,’ Ms. Shaw explained that the report is built on data which itself is unreliable. Specifically, she explained that authorized extensions of the investigative time frames established in policy are not reported in the IMPACT data system from which these reports are pulled. Ms. Shaw further indicated that ‘[w]e know it’s a problem, but . . . it would take an IMPACT change, and that’s not within our purview to ask for those changes or mandate those changes.’ Yet this faulty report is published monthly and distributed. When asked if she has any sense of the rate of compliance with the requirement that abuse and neglect investigations be closed timely, taking into account extensions, Ms Shaw replied: ‘I truly don’t.’ This is the antithesis of quality assurance.” (Chansuthus, 17)</p>
<p>PX1995, The Stephen Group “DFPS CPS Operational Review, Phase 1: Recommendations</p>	<p>“Improve functionality of child welfare data warehouse and interface (IMPACT) to reduce delays and to align with caseworker needs – Every minute that a field staffer needs to get a paper document scanned, re-enter data into the same system, or sort through countless data screens is time not spent with children and families. Aligning these resources would make workers more productive and improve outcomes.” (The Stephen Group, PLTF0068774)</p>

<p>ons,” at PLTF0068774</p>	
<p>PX885, “Legislative Appropriations Request, Texas Department of Family and Protective Services,” at DFPS0056647 72</p>	<p>“All client records are electronic and case documentation is done via sophisticated software and equipment. The agency is now highly dependent on these highly efficient electronic systems.” (DFPS, DFPS005664772)</p>
<p>PX1995, The Stephen Group, “DFPS CPS Operational Review, Phase 1: Recommendati ons,” at PLTF0068847</p>	<p>“There should be an electronic case file for every CPS case that includes everything needed to support that case. The file should be accessible in the field and by employees, supervisors and third parties who are authorized to view and update it. The barrier between IMPACT documents and DFPS forms, third party faxes, medical records, photographs, audio files, emails, etc. must be eliminated. Appropriate attention should be paid to when encryption and decryption is required to protect and secure the transmission of personal data. TSG understands there is an effort underway called ‘One Case’ that is moving in this direction. The recommendation can build on this existing effort.” (The Stephen Group, PLTF0068847)</p>
<p>PX1995, The Stephen Group, “DFPS CPS Operational Review, Phase 1: Recommendati ons,” at PLTF0069159</p>	<p>“Enhance process to support mobility to reduce office and administrative time – While CPS has spent considerable resources building out mobile devices for the staff, the policy and process still creates delays, such as the printing of a form back at the office to be picked up and then returned to the home for signature. Making the technology and the process work together better will mean that caseworkers spend more time with families and less time on administrative tasks.” (The Stephen Group, PLTF0069159)</p>
<p>PX2021, Daryl Kennedy Chansuthus, “DFPS Residential Child Care Licensing: A Second</p>	<p>“The November 2013 PMU report recommended that when supervisors approve a downgrade from Abuse / Neglect to Non Abuse / Neglect for an investigation, the reason for the downgrade should be documented. Ms. Shaw testified that she ‘didn’t do anything directly’ to ensure that downgrades were being appropriately documented. She was not aware of any actions taken to implement the PMU recommendation. The same November 2013 report recommended that the CLASS system be enhanced to make the priority change comment box a required field. Ms. Shaw testified that she does not believe that a CLASS enhancement has been</p>

<p>Review,” at Page 14, footnote 74</p>	<p>implemented but that she is unsure. See Exhibit 1 to the August 7, 2014 Deposition of Darla Jean Shaw, Performance Management Unit: Intake Report Non-Abuse/Neglect & Abuse/Neglect Focus: All Priorities, November 2013, p. 7; August 7, 2014 Deposition of Darla Jean Shaw, p. 20-21. The October 2013 PMU report recommended that ‘the documentation of priority change be revisited and that a clear description regarding the reasoning of the priority change should be emphasized.’ Ms. Shaw similarly testified that she did nothing to implement that recommendation and that she did not know whether her Program Managers had done so themselves. Exhibit 2 to the August 7, 2014 Deposition of Darla Jean Shaw, Performance Management Unit: Investigations Casereading Report for appropriate Priority of Priority 1, 2 & 3, Standards & Abuse/Neglect Focus: Intakes and Priorities, October 2013, p. 8; August 7, 2014 Deposition of Darla Jean Shaw, p. 46-47.” (DFPS, 14 n. 74)</p>
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Item 3: DFPS shall include an updated portrait photograph of each child in their respective case files. The Special Master will recommend how frequently the photograph must be updated. Each photograph shall include the date it was taken, and be organized and easily retrievable in the case files.

There is extensive evidentiary support in the record for the various reforms recommended by the Special Masters to address this Item in the Court’s Memorandum Opinion and Verdict including, but not limited to, the following:

Document	Quotes
<p>PX1995, The Stephen Group “DFPS CPS Operational Review, Phase 1: Recommendations,” at PLTF0069075</p>	<p>“The caseworkers need a faster way to upload photographs, audio files, and emails associated with the case.” (The Stephen Group, PLTF0069075)</p>
<p>12.01.14 McCall Cross, at 104:13-25</p>	<p>Q “I have another acronym. What is ‘TARE’?” A “TARE. Texas Adoption Resource Exchange.” Q “Are there TARE specialists or employees?” A “We have a small number at state office, I think maybe two or three people, who keep that data - - it's a -- it's an online; it's pictures and profiles of children available for adoption, as well as we get information about families. So, families can go on line and look if they're interested in adoption. So, we have state office staff that get the information from the primary caseworker of what the child is like, the pictures and all of that, and they do the technical piece of uploading it and keeping it updated, as best as I understand it.” (McCall Cross, 104:13-25)</p>

<p>12.03.14 Klager Direct, at 229:9-23</p>	<p>“For instance, her caseworker had a picture of her. She didn't tell me she had a picture for several weeks. She kind of was saying, ‘Well, it might be M.D., we don't know. We don't really want to get our hopes up.’ She sends me the picture, I look at it, and it's her. She doesn't even know what her client looks like.” Q “This is M.D.'s caseworker --” A “Her new caseworker.” Q “-- doesn't even know that she has a picture of the person that she's supposed to be protecting?” A “She didn't even -- she didn't share the picture for several weeks, she didn't recognize her, she doesn't know what she looks like. It was plainly her. I shared the picture with CASA, I mean, it was her. If anyone had actually taken the time to ever meet her you would know what she looks like.” (Klager Direct, 229:9-23)</p>
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Item 4: DFPS shall establish, staff, and maintain a 24-hour hotline for receiving and responding to reports of abuse and neglect. The hotline’s phone number must be readily available and displayed prominently in all foster care residential facilities. Foster children must be allowed telephone access to reach out to this 24-hour system, free from observation.

There is extensive evidentiary support in the record for the various reforms recommended by the Special Masters to address this Item in the Court’s Memorandum Opinion and Verdict including, but not limited to, the following:

Document	Quotes
<p>12.03.14 Klager Direct, at 226:18-21</p>	<p>Q “Now has -- have you talked to M.D. about when she actually reports abuse what happens?” A “If M.D. -- if she reports to staff nothing is going to happen.” (Klager Direct, 226:18-21)</p>
<p>12.03.14 Klager Direct, at 225:12-24</p>	<p>Q “Based on your experience what do you think -- what is your experience about what happens to children that are in the DFPS that make objections or complaints or allegations of abuse?” A “I don't think anything happens to correct it. My experience is that sometimes the children are retaliated back against. I know M.D. said after she had made the outcry at Five Oaks the staff were very mad at her, that one staff member had even threw her down in her restraints. There's a mentality if you outcry you're going to pay for it, and it also became an issue where we couldn't find other RTCs to take her because of the outcries. All I know is what the caseworker would tell me is these RTCs won't take her, she's a liability, they don't want to get sued, she makes outcries.” (Klager Direct, 225:12-24)</p>
<p>12.03.14 Virgil Direct, at 199:25-200:12</p>	<p>Q “Did this turnover in caseworkers have any effect on you? A “Yes.” Q “What? What was that?” A “A lot -- a lot of times whenever I had issues in some of the homes I didn't know who to go to, I didn't know who to trust and so I just -- most of the time I kept my mouth shut.” Q “And was one of the things that you kept your mouth shut about being sexually abused by one of your foster families?” A “I tried to report it and the person that dropped me off at the home was my caseworker at the time, she handed me a number and said "if anything happens, call." I tried to</p>

	<p>call, I tried to report it and it was like, “okay, we'll investigate it” and then nothing ever happened.” (Virgil Direct, 199:25-200:12)</p>
<p>12.04.14 Sharp Direct, at 170:5-171:3</p>	<p>Q “Why did you think nobody would believe you if you reported it?” A “There’s a culture of mistrust in the system. Workers, I think -- or young people don’t build relationships with people in a way that allows them to share these things where they can trust people. I mean, you come from a background where you’ve been traumatized and you’ve had to deal with a lot of different things that have caused you to end up in the system and then on top of that, there’s abuse in the system. And I can tell you I’ve had the opportunity to work with a lot of young people since aging out who are recently in the -- recently aged out of the system, some still in the system and the stories are all the same. I’ve never met a young person who stayed at an RTC that hasn’t been abused and hasn’t felt like they wouldn’t be able to report it and somebody believe them. I think, you know, we’re blamed for everything. People are constantly telling us how bad we are and I think that for most of us, we’ve probably out-cried before. We’ve probably talked about this before or at least relayed that we didn’t feel comfortable. We didn’t feel safe in placements and then nothing happened and so -- I mean, why -- why would you go through to the process of even thinking that something would happen if you were to report something like this?” (Sharp Direct, 170:5-171:3)</p>
<p>12.04.14 Sharp Direct, at 169:5- 170: 13</p>	<p>Q “And you assaulted by – not by name but what category of person?” A “One of the staff, one of my caregivers but also by my peers, too. It was common, you know, in those types of settings for stuff like that to happen and it wasn’t – certainly wasn’t unique to the Nelson Center and it wasn’t unique to me”... “And the challenging part about this is that we never had an opportunity to report and, I mean, when you have someone who is monitoring your every day and your access to the outside world is so restrictive, you do not have the opportunity to report these things and it just – it wasn’t going to happen. In fact, I can remember being on the phone with my worker sometimes and him being right there.” Q “The man who raped you?” A “Yeah, yeah. And I remember thinking that even if I did get the chance to tell somebody about these things that nobody would believe me. Nobody certainly would do anything. I’d have to stay here and I’d probably – it’d probably happen to me even more because then he would maybe find out and then nothing would happen and I’d have to continue to deal with it. So, yeah, RTCs are very bad and this isn’t just unique to the Nelson center at all.” Q “Why did you think nobody would believe you if you reported it?” A “There’s a culture of mistrust in the system. Workers, I think – or young people don’t build relationships with people in a way that allows them to share these things where they can trust people. I mean, you come from a background where you’ve been traumatized and you’ve had to deal with a lot of different things that have caused you to end up in the system and then on top of that, there’s abuse in the system.” (Sharp Direct, at 169:5-170:13)</p>

<p>12.04.14 Sharp Direct, at 175:24-176:17</p>	<p>Q “Do you know whether any of the incidents in which young people were assaulted were reported to DFPS?” A “I can’t say I do, no. I do know that it is challenging to report things in the system. I know that I experienced a lot of abuse and that my story is not unique and that this is something that happens across the system to young people and I didn’t know how to report it. I would think now being a social worker and having, you know, looked at the system from another perspective that it would be the duty of the caseworker to -- you should be able to report to them but I didn’t know there was a number that I could call. Even if there was, I wouldn’t have access to it. I didn’t have anyone who I felt comfortable reporting these things to and I think these are the feelings of most children in the system and so I can’t imagine that DFPS would even be able to understand the depth of abuse that happens in the system and I certainly wouldn’t be able to trust any -- I don’t know, any number they tried to put on anything because there is abuse happening all the time that simply is not being reported.” (Sharp Direct, 175:24-176:17).</p>
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Item 5: DFPS shall improve its programs and outreach for children who will age out of foster care so that more children take advantage of these programs.

There is extensive evidentiary support in the record for the various reforms recommended by the Special Masters to address this Item in the Court’s Memorandum Opinion and Verdict including, but not limited to, the following:

Document	Quotes
<p>PX1872, Center for Public Policy Priorities, “Child Protective Services and the 81st Legislature,” at 2 RFP loose 00007308</p>	<p>“Children who grow up in foster care are more likely to experience homelessness, poverty and crime.” (Center for Public Policy Priorities, 2 RFP loose 00007308)</p>
<p>PX1877, Center for Public Policy Priorities, “The Guide to Texas Child</p>	<p>“[Youth who age out of foster care] are more likely to experience violence, <u>homelessness</u>, mental illness, and other poor health outcomes.” (DFPS, DFPS005294574)</p>

<p>Protective Services,” at DFPS005294574</p>	
<p>PX1877, Center for Public Policy Priorities, “The Guide to Texas Child Protective Services,” at DFPS005294574</p>	<p>“Youth who age out of the system have no permanent place to call home and often have a difficult time. They are less likely than their peers in the general population to achieve academic milestones, including high school graduation and postsecondary education, which are the foundations of self-sufficiency. These youth are less likely to be employed and, even when they are employed, are more likely to be in jobs that do not pay a living wage. They are more likely to experience violence, homelessness, mental illness, and other poor health outcomes. They are more likely to be incarcerated, to abuse substances, and to experience early parenthood out-of-wedlock.” (DFPS, DFPS005294574)</p>
<p>PX1988, Texas Appleseed, “Improving the Lives of Children in Long-Term Foster Care: The Role of Texas’ Courts & Legal System,” at GK0001030</p>	<p>“Regrettably, research shows that children who spend three or more years in long-term foster care are much more likely to ‘age out’ of foster care system at 18 unprepared for independent adult living.” (Texas Appleseed, GK0001030)</p>
<p>PX1988, Texas Appleseed, “Improving the Lives of Children in Long-Term Foster Care: The Role of Texas’ Courts & Legal System,” at GK0001035</p>	<p>“It is not surprising that Casey Family Programs, a national leader in child welfare issues, has concluded that teens in foster care (ages 15-19) are among the ‘most disconnected youth’ in America.” (Texas Appleseed, GK0001035)</p>

<p>PX1988, Texas Appleseed, “Improving the Lives of Children in Long-Term Foster Care: The Role of Texas’ Courts & Legal System,” at PLTF0006837</p>	<p>“1,000+ youth age out of foster care in Texas every year. Studies show that they are at high risk for low educational attainment, poverty, unemployment, early pregnancy, mental illness, and incarceration.” (Texas Appleseed, PLTF0006837)</p>
<p>PX1988, Texas Appleseed, “Improving the Lives of Children in Long-Term Foster Care: The Role of Texas’ Courts & Legal System,” at PLTF0006841</p>	<p>“In Texas, over 1,000 youth age out of foster care every year. These children now face a plethora of hardships that the general population of young people their age will never know. One study found that 54.4% of former foster youth had one or more mental health disorders (20% of those youth were diagnosed with major depression); 65% experienced seven or more school changes; only 84.8% completed high school; only 1.8% completed a bachelor’s degree; 33.2% had household incomes below the poverty line; and 33% had no health insurance. Furthermore, older youth – who are the most likely to age out of the system – usually live in group homes or institutions, which are the ‘least “family-like” settings.’ In this particular form of placement, it becomes even harder for the youth to find mentors who can guide their transition from foster care into adulthood, as the attention provided to each young person tends to be diluted. With these findings, it is easy to see why foster youth who age out are far more disadvantaged than other youth their age.” (Texas Appleseed, PLTF0006841)</p>
<p>PX1988, Texas Appleseed, “Improving the Lives of Children in Long-Term Foster Care: The Role of Texas’ Courts & Legal System,” at PLTF0006842</p>	<p>“Former foster youth also have much more difficulty finding housing and often experience homelessness at least once after leaving foster care. In a 2005 study of former foster youth in the Pacific Northwest, 22.2% of the foster youth interviewed were homeless for one or more days. A survey of former foster youth conducted two years later (2007) in the Midwest produced similar findings, with 18% of the youth being homeless at least once by age 21. Over half of these surveyed youth were homeless more than once.” (Texas Appleseed, PLTF0006842)</p>

<p>PX1988, Texas Appleseed, “Improving the Lives of Children in Long-Term Foster Care: The Role of Texas’ Courts & Legal System,” at PLTF0006842</p>	<p>“One Texas youth specialist noted: ‘The majority of the former foster children I see are homeless. They are couch surfing, with no good options for finding a home. In fact, the situation is so severe that the community is in the process of building a new homeless shelter for young adults.’ (Texas Appleseed, PLTF0006842)</p>
<p>PX1988, Texas Appleseed, “Improving the Lives of Children in Long-Term Foster Care: The Role of Texas’ Courts & Legal System,” at PLTF0006842</p>	<p>“Even if they are not dealing with homelessness, former foster children must frequently struggle to establish stable, long-term housing. The 2007 Midwest study found that one-third of former foster youth lived in at least three different places by the age 21, with 20% living in four or more places. These studies indicate that the lack of a stable home in foster care continues to plague those who age out of care – and disrupts their lives long after they leave a state’s foster care system.” (Texas Appleseed, PLTF0006842)</p>
<p>PX1988, Texas Appleseed, “Improving the Lives of Children in Long-Term Foster Care: The Role of Texas’ Courts & Legal System,” at PLTF0006843</p>	<p>“Youth aging out of foster care have much more difficulty holding jobs that pay them decent wages when compared to the general population. At the time of the Midwest study (2005), only 40% of participating youth were employed at the age of 19. These percentages did not improve over the next two years, with only 49.6% of men and 57.1% of women being employed by the age 21. A separate 2005 study conducted in Alaska found that 58.5% of foster alumni were working at the time they were interviewed. These low employment rates seem to have remained steady over the years. An older study conducted in Texas reported 60% of the former foster youth having a history of unemployment and financial instability mostly due to lack of job skills. These youth also reported taking any job they could find, which required frequent moves. The lack of steady employment results in low and sporadic income. More than 80% of foster youth are unable to support themselves even four years after leaving care, and 33.2% lived below the poverty line. Even when former foster youth are able to find employment, their income is extremely low. In the Midwest study, the mean hourly wage for former foster youth was \$7.54/hour, with 75% earning less than \$5,000 and 90% earning less than \$10,000 the previous year.” (Texas Appleseed, PLTF0006843)</p>

<p>PX1988, Texas Appleseed, “Improving the Lives of Children in Long-Term Foster Care: The Role of Texas’ Courts & Legal System,” at PLTF0006843 - PLTF0006844</p>	<p>“Casey Family Programs has documented staggering educational deficits among foster youth. Compared to the general population, foster youth are: 1) more than twice as likely as non-foster youth (37% v. 16%) to drop out of high school; 2) less likely to be enrolled in college preparatory classes (15% v. 32%); 3) significantly under-represented in post-secondary programs; 4) often at least one grade level behind their peers; and 5) much more likely to be in special education classes than their peers.</p> <p>Recent studies have confirmed these dismal statistics. The Midwest study found that more than one-third of former foster youth have neither a high school diploma nor GED by age 19. By the time these youths turned 21, around 25% still had not received a diploma or GED. The Pacific Northwest study found a much higher rate of high school completion at 84.8%. However, it also found that 28.5% of the time, foster children exited high school with a GED, which is six times the rate of the general population. As for post-secondary education, very few foster youth who aged out of the system attend college or vocational school. Roughly, between 30% and 40% received some education beyond high school. However, only 16.1% receive vocational/technical degrees, and less than 2% receive bachelor’s degrees. A lack of education is a major contributing factor to foster youths’ below average employment and income levels.” (Texas Appleseed, PLTF0006843- PLTF0006844)</p>
<p>PX1988, Texas Appleseed, “Improving the Lives of Children in Long-Term Foster Care: The Role of Texas’ Courts & Legal System,” at PLTF0006844</p>	<p>“Former foster youth are also more likely to be arrested and incarcerated. According to the Texas Foster Care Transitions Project study, 5% of the study sample had been or were currently incarcerated in state prison. At the time of the study, the number of foster youth incarcerated nearly doubled that of the general population. In the 2005 Midwest study, 38.8% of the 19-year-old males had been arrested, and 30% had been incarcerated since they were last interviewed before exiting care. When they were interviewed at age 21, 26.6% had been arrested again and 35.8% had been incarcerated.” (Texas Appleseed, PLTF0006844)</p>
<p>PX1988, Texas Appleseed, “Improving the Lives of Children in Long-Term Foster Care: The Role of Texas’ Courts & Legal System,” at PLTF0006844</p>	<p>“They encounter the juvenile or criminal justice system because they act out and don’t have any guidance. All of a sudden they are no longer the victim but are considered criminal or deviant or perpetrator. Most of these children end up being dealt with through the prison’s punitive system after aging out The more small offenses they have on their record, the less their chance of ever breaking out of the cycle and ending up anywhere but in jail.” (Texas Appleseed, PLTF0006844)</p>

<p>PX1988, Texas Appleseed, “Improving the Lives of Children in Long-Term Foster Care: The Role of Texas’ Courts & Legal System,” at PLTF0006844 - PLTF0006845</p>	<p>“The prevalence of teen pregnancies among youth aging out of foster care is very high. One study found that 42% of foster females who aged out became pregnant only a few years after exiting. In the Midwest study, over one third of the young women reported becoming pregnant a year after their initial interview, which was at age 17 or 18, and 18% of those had already been pregnant more than once. When these same girls were interviewed again two years later, 71% reported a previous pregnancy and half became pregnant since their last interview. Teen pregnancies also correlate with a reliance on government benefits. One study found that almost all former foster females with one child reported needing government benefits at some point after leaving foster care.” (Texas Appleseed, PLTF0006844-PLTF0006845)</p>
<p>PX1988, Texas Appleseed, “Improving the Lives of Children in Long-Term Foster Care: The Role of Texas’ Courts & Legal System,” at PLTF0006845</p>	<p>“One foster parent, whose foster children continue to visit her after aging out, describes it this way: ‘These youth do not become productive adults. They have a hard time holding down a job. They cannot stay in a long-term relationship. They have children themselves but make very poor parents.’” (Texas Appleseed, PLTF0006845)</p>
<p>PX2015, William Lee Carter, “Common Types of Harm Identified in Psychological Evaluations of the Name Plaintiffs,” at 11</p>	<p>Information is confidential, filed under seal, or otherwise covered by Amended Protective Order. (Docket Entry 138). (Carter, 11)</p>

<p>PX2015, William Lee Carter, “Common Types of Harm Identified in Psychological Evaluations of the Name Plaintiffs,” at 11-12</p>	<p>Information is confidential, filed under seal, or otherwise covered by Amended Protective Order. (Docket Entry 138). (Carter, 11-12)</p>
<p>PX2015, William Lee Carter, “Common Types of Harm Identified in Psychological Evaluations of the Name Plaintiffs,” at 12 and 33</p>	<p>Information is confidential, filed under seal, or otherwise covered by Amended Protective Order. (Docket Entry 138). (Carter, 12)</p>
<p>PX2015, William Lee Carter, “Common Types of Harm Identified in Psychological Evaluations of the Name Plaintiffs,” at 12</p>	<p>Information is confidential, filed under seal, or otherwise covered by Amended Protective Order. (Docket Entry 138). (Carter, 12)</p>
<p>PX2015, William Lee Carter, “Common Types of Harm Identified in Psychological Evaluations of the Name</p>	<p>Information is confidential, filed under seal, or otherwise covered by Amended Protective Order. (Docket Entry 138). (Carter, 33)</p>

<p>Plaintiffs,” at 33</p>	
<p>PX2037, Viola P. Miller, “Overloaded Caseworkers, an Inadequate Placement Array, and Harm to Children in Texas,” at 33</p>	<p>“The devastating impact of aging out of foster care is well-established. A September 2013 Self-Evaluation Report submitted by DFPS to the Sunset Commission acknowledged that ‘youth who grow up in foster care without permanent families and community connections are more likely to live in poverty, be unemployed, become homeless, have untreated serious medical and mental health issues, and become involved in the criminal justice system.’” (Miller, 33)</p>
<p>PX2037, Viola P. Miller, “Overloaded Caseworkers, an Inadequate Placement Array, and Harm to Children in Texas,” at 8</p>	<p>“According to a Casey Family Programs report to DFPS, ‘caseloads, workforce turnover and other workforce factors hold potential to significantly affect the quality of case work and case outcomes, including length of stay in care and timely transitions to permanency.’” (Miller, 8)</p>
<p>PX2037, Viola P. Miller, “Overloaded Caseworkers, an Inadequate Placement Array, and Harm to Children in Texas,” at 9</p>	<p>"Without the time to effectively focus on each child and family, there is an increased risk of children being further abused or neglected in care, suffering additional trauma through grief and loss, and experiencing delays in transitioning into permanent families that they so desperately need in order to grow into successful adults." (Miller, 9)</p>

<p>PX2037, Viola P. Miller, “Overloaded Caseworkers, an Inadequate Placement Array, and Harm to Children in Texas,” at 31</p>	<p>“In other words, almost 60% of the Texas children who exit foster care to emancipation do so after ‘growing up in foster care.’” (Miller, 31)</p>
<p>PX2041, Mary Dee Richter, M.S.Ed., “The Use of Foster Group Homes by the Texas Department of Family and Protective Services,” at 15</p>	<p>Information is confidential, filed under seal, or otherwise covered by Amended Protective Order. (Docket Entry 138). (Richter, 15)</p>
<p>12.02.14 Langsley Direct, at 69:2-24</p>	<p>Q “You were describing how the child might -- is moved into PMC by the State gets less attention, in your experience. Any other aspects of that that -- in terms of their outcome and their permanency -- move towards permanency that you’ve seen in your practice?” A “You know, I think the more ‘difficult’ the child is perceived to be, the less effort there is to really get that child into a permanent placement. What I observed with the last two cases that I had was the department representative said, ‘Oh, this child will just go back to her mom when she ages out.’ And I was fighting against that because it was inappropriate for the child to go back to her mom. There was very little preparation on behalf of the Department’s staff in those situations that I observed to get the kid transitioned past that 18th birthday and that was frustrating to me. California has a law that says you -- if a child is disabled, you must make sure that the child’s right to social security benefits is established for them to turn 18 and the obligation exists to make sure that their social security benefit access continues as an adult. We don’t have that and in D.P.’s case, I was stunned to find that nothing had been done to ensure that this child when she aged out would continue to have access to her social security benefits.” (Langsley Direct, 69:2-24)</p>
<p>12.02.14 Langsley</p>	<p>Q “One last thing. You mentioned earlier that you were shocked to find that while she was eligible for social security that there was a problem when she aged out when she left the custody of the State. What was the problem?” A “I received an</p>

Direct, at 78:17-79:1	email from the CPS supervisor that said -- it wasn't to me. I was copied but it was sent to the Eligibility Specialist at the Department and said, 'Oh, by the way, now that she's aged out, does she have to apply for her own social security?' and the response was, 'Yes.' And that was it. That's all. (Langsley Direct, 78:17-79:1)
12.02.14 Langsley Direct, at 75:22-24	Q "PAL" being?" A "It's a class that kids who are 16 and older take preparation for adult living." (Langsley Direct, 75:22-24)
12.02.14 Langsley Direct, at 75:11-19	Q "How prepared was she to -- in terms of skills to get a job, in terms of an education to get a -- to have a GED?" A "Nothing. She put all her eggs in her -- in the basket of going with this family. She was not -- she did not know how to use a computer because when she was at Hector Garza, she was on restriction and one time I remember specifically. She was not allowed to use the computer because she had been chewing gum against the rules. She did not know how to fill out a job application." (Langsley Direct, 75:11-19)
12.02.14 Langsley Direct, at 76:5-77:15 and 77:16-78:16	Q "What happened to her after she identified this family with the youth pastor without any skills?" A "They kicked her out in -- within three weeks. They took her off her meds, first of all. She was diagnosed bipolar and she needed to be on medication. They took her off her meds. They kicked her out within three weeks. She went to Corpus Christi. Then the next thing we heard, she wanted to go live with someone in Austin in a boarding facility. She got kicked out of there. She lived on the street. She got pregnant, contacted several people trying to find ways to make money through her pregnancy by either saying, 'I'll give you the baby. You can adopt if you put me up in a hotel' -- including a child-placing agency out of Lubbock. And then she had the baby and her CASA helped her after -- immediately after she was released from the hospital. She left her CASA's house and ultimately traded the baby for a dog and the baby came into care." Q "Traded the baby for a dog?" A "Yes." Q "What happened?" A "The people who took the baby said, 'We don't want this baby anymore' and they called CPS and the baby came into care and was positive for gonorrhea." THE COURT: "For what?" THE WITNESS: "Gonorrhea. The baby was four months old and had gonorrhea." BY MR. YETTER: Q "And that is obviously contracted through sexual contact?" A "Yes." Q "How did she come to trade the baby for a dog?" A "She pretty much contacts me or her CASA or some other fictive kin friends whenever she needs money and I don't know." Q "So that baby is now in the State's custody?" A "It's a Travis County case, yes." Q "The cycle is repeating itself?" A "It sure is." (Langsley Direct, 76:5-77:15)
12.02.14 Langsley Direct, at 77:16-78:16	Q "Today, what's -- coming -- having aged out of DPS, where -- DFPS, where is -- what is D.P. doing now?" A "She was released from jail recently. She told her CASA that she really kind of like being in jail because they put her back on her meds and she had a place to stay. And she was released and none of us can find her

	<p>right now but I heard there was a hearing coming up regarding her baby in November or December.” Q “Having been in the custody of the state of Texas, the DFPS, for some 12 years, do you -- was D.P. prepared to go out into the world at her -- when she aged out at 18?” A “Not at all.” Q “Do you think from the -- based on your observation from the time you first met D.P. until the time she left custody of the State of Texas that she got better or worse or stayed the same?” A “She got worse.” Q “Do you think that she was a hopeless situation or do you think -- or otherwise? Could she have been trained, could she have been given skills, if she had been properly supervised?” A “She did so much better when she was in her aunt’s home and was on her medication. I cannot even begin to describe it. Her grades were good. If this child had had a place that she could stay -- one place and receive her medication and receive help with training, absolutely I think she could have gotten out. She’s eligible for social security. She could be stable.” (Langsley Direct, 77:16-78:16)</p>
<p>12.03.14 Arce Direct at 12.03.14 Acre Direct, at 51:1-5, 51:9-10</p>	<p>Q “And did you have any issues with the ICU worker about the issues --” A “I wanted to get my social security card and my birth certificate to help my aunt out and get job [in] the first four months. But every time I kept asking [my I See You worker] about it, he would say, ‘Oh, I forgot,’ in the first four months. And whenever --” (Arce Direct, at 51:1-5)</p> <p>THE COURT: “Who’s your -- who was this?” A “ My ICU worker.” THE COURT: “Your ICU worker.” A “And at the time I called my caseworker and she would not answer or pick up my calls.” (Arce Direct, 51: 9-10)</p>
<p>12.03.14 Miller Direct, at 37:17-38:3</p>	<p>A “They [children under PMC] just are moved all the time and I -- it makes sense to me from my professional experience that if case workers did have the time and the resources to make those decisions in a way that was more appropriate for children, then they would be making those decisions in ways. You also see when you have -- and when your caseloads are too high, these incredible lengths of stay. Well, length of stay is directly related to exits to permanency. The longer the kid stays in care, the longer he’s -- he or she is denied that permanent environment that they so definite -- desperately need if they’re going to get on that path to a successful adulthood.” (Miller Direct, 37:17-38:3)</p>
<p>12.03.14 Jackson Direct, at 195:8-13</p>	<p>Q “And did -- I gather -- I just want to make sure I understand this, your last foster - - sorry, last caseworker never had any discussions with you about how you might support yourself when you left foster care or what kind of vocational training you might be able to find?” A “Correct. Yes, ma'am.” (Jackson Direct, 195:8-13)</p>
<p>12.03.14 Carpenter Direct, at 24:4-10</p>	<p>Q “How is -- you mentioned mental and emotional abuse. How are you seeing that affecting the youths that are now coming to Angel Reach?”</p> <p>A “They don’t believe that they can succeed. I mean, it’s -- and they don’t trust people. It takes us, you know, a good 18 months to two years to undo the layers of damage that are going on with these -- with the youth.” (Carpenter Direct, 24:4-10)</p>

<p>12.03.14 Bentley Direct, at 69:10-14, 24-70:16</p>	<p>Q “In addition to the physical impact of the both physical and sexual abuse that you experienced when you were in foster care, did these experiences have any other impact on you, other than the physical impact?” (Bentley Direct, 69:10 – 14)</p> <p>A “...I was easily lured into, you know, different kinds of situations where, you know, people would abuse me and exploit me when I got older and, you know, in my adulthood. And I had several children, you know, before I was ready, and it's affected the way that I raised them. Like I have no idea what to do sometimes. Like I had no parents, no like guidance at all. So it's definitely affected me as an adult and just kind of trying to piece my life together after being abused and try to become this normal part of society, it's hard because I know a lot of stuff that kids shouldn't know or should never have to experience. And, you know, when I look at my children, I have to be very, very protective of them. I'm probably very overprotective of my children. I don't trust anybody around them. And like I said, just unhealthy relationships, like being able to be married to someone or just trust anybody like you just as a friend, like it takes time, a lot of time. You know, I feel like it's me against the world all the time.” (Bentley Direct, 69:24-70:16)</p>
<p>12.03.14 Carpenter Direct, at 11:11-3</p>	<p>Q “Why do they need those [transitional living] skills and tools when they come out of foster care? Why are they not taught those skills and tools in foster care of the state of Texas?” A “I don’t know.” (Carpenter Direct, 11:11-3)</p>
<p>12.03.14 Carpenter Direct, at 13:19-14:2</p>	<p>Q “What have you seen about children -- young adults coming -- aging out of foster care here in the state of Texas in terms of the women, the young women and how likely they are to get to be pregnant at a certain age?” A “Well, the statistics that we know about are that 49 percent of girls who age out of foster care are pregnant by the time they’re 19 and 70 percent of those children that are born to them are put in the foster care system. So it keeps getting larger.” (Carpenter Direct, 13:19-14:2)</p>
<p>12.03.14 Carpenter Direct, at 15:8- 16:3</p>	<p>Q “And when they age out, who do they turn to, in your experience in dealing with these young men and women?” A “Well, usually they go and look for their birth parents.” Q “Look for their --” A “Birth parents.” Q “Birth parents.” A “And then that doesn’t work out because nothing has changed from the time that they were removed and so then they start looking for friends or they start couch surfing or they end up doing criminal activities in order to survive, trespassing in vacant homes or stealing or human trafficking, prostitution, those kind of things in order to have a place to stay.” Q “When you work with these young men and women at Angel Reach, do you try to get to know them? Do you understand what their stories? Do they tell you? Do they share with you?” A “Yes, they can stay with us up to 18 months to two years. So we do get to know them. When we first started the program and they would tell me about their experiences, I was shocked and I thought it was isolated but after three years and a hundred eighty kids later, the stories sound the same about what’s happened to them.” (Carpenter Direct, 15:8-16:3)</p>

<p>12.03.14 Carpenter Direct, at 28:21-29:8</p>	<p>Q “And why is that isolating? Why is it so restrictive for all these children that live in the GROs?” A “Well, because they’re treated as a group. I mean, you can’t --- and that’s why youth age out of foster care without skills because how many people would you have to pay to take care of children to take them to their first job, to teach them how to drive, to teach -- to, you know, go cut wood or go swimming or do things like that. Those are all activities that children grow up in this country and do every day except when they’re in foster care because there has to be, you know, a limited amount of grownups to take care of a group of kids. So obviously they can’t do individual activities or learn things that they need to learn.” (Carpenter Direct, 28:21-29:8)</p>
<p>12.03.14 Carpenter Direct, at 29:16-30:25</p>	<p>Q “Now, there are young people that come to you, you mentioned at the outset of your testimony, that they don’t have the skills. Like, what are some of the skills that they don’t have coming out of the Texas DFPS custody?” A “Easter dinner, watching kids eat and not being able to use a knife to cut their food because they’re not allowed to have knives where they live. I mean, that’s a very big example of what they’re not taught. They are not taught how to fill out a job application. They’re not taught how to make a medical appointment for themselves. They are not taught how to drive. They are not taught how to answer a phone or take a message or leave a message for anybody. And the list goes on.” Q “Can they cook a meal for themselves?” A “No. Some -- it depends. It depends on where they lived but the majority cannot.” Q “What is -- I have put youth in apartments where they will call me and say, ‘Ms. Sandra, the oven doesn’t work’ and it’s because they don’t know how to turn it on. They do not know how to load a dishwasher.” Q “What other things are you teaching them through Angel Reach?” A “We have life skills, intensive life skills. I mean, we do life skills every Monday night, plus they have a checklist of life skills that they have to learn before they can even leave our assessment center which is the first stage of our housing. They have to learn how to mow a yard. They have to learn how to weed-eat. They have to learn how to make a bed. They have to learn how to unplug a toilet. They have to learn -- I mean, it’s just a huge list. And then we also do driver’s ed and we teach them how to drive, teach them how to fill out job applications. We give them a mentor which is a person they are connected with through the entire program and hopefully for the rest of their life because they do not know how to have relationships.” (Carpenter Direct, 29:16-30:25)</p>

<p>12.03.14 Jackson Direct, at 184:20- 185:19</p>	<p>Q “What were the circumstances under which you left foster care?” A “Well, there was days before I turned 18, my foster parent, she told me to pack my stuff. And I was looking into going to the Military because I had no hold of my caseworker, I couldn't get in touch with her, and finally I got in touch with her and she was just kind of -- she basically just threw Angel Reach at me, she was like -- and I kind of felt like it was just something for me to get off her caseload or whatever. So I did a tour of Angel Reach and I decided to go -- I don't really think I had a choice at the time, it was just take this or be homeless until you get into the Military, so I went.” Q “And when you referred to that last placement, was that an individual family foster home or was it a foster group home?” A “An individual family home.” Q “Okay. All right, what kind of preparation, if any, did your caseworker give you for leaving foster care?” A “I had none. I didn't have --I didn't have a circle support, I didn't have ID, driver's license, I didn't have anything, nothing.” Q “Did you get a Medicaid card?” A “I have no Medicaid and I still do not have Medicaid.” Q “And where could you leave -- sorry, did the worker talk to you about where you should go, what your plans might be?” A “No.” (Jackson Direct, 184:20-185:19)</p>
<p>12.03.14 Jackson Direct, at 190:12-16</p>	<p>Q “Do you find it hard to get along with people now?” A “Yeah. I definitely -- it's just I don't really know people or I never met this person before, so it's just a wall that's up that I don't trust you or I really don't want you around me too long because I don't know you.” (Jackson Direct, 190:12-16)</p>
<p>12.03.14 Virgil Direct, at 207:19-209:2</p>	<p>Q “Now you testified that -- earlier that you had left foster care when you were 19, right?” A “Yes.” Q “And did you have a worker who helped you make plans for when you left?” A “No. I had a circle of support group in which they tried to pressure me to go to college that didn't support my degree plan.” Q “And did you get any funds for transitional -- or a transitional living allowance when you left?” A “No. I was told there wasn't any fundings.” Q “Did you try to inquire of CPS about what transitional plans they might be able to help you with?” A “No.” Q “Did you try and get your birth certificate and Social Security card?” A “Yes.” Q “And what happened with that?” A “I was told by CPS that they no longer have my case and so I was on my own. I ended up having to go a Social Security office, apply for my Social Security card and then send money out for my birth certificate.” Q “Okay, but CPS didn't help you with that?” A “No.” Q “Did you know who your worker was at that point right after you left foster care?” A “No.” Q “How do you think being in foster care and the experiences that you've been telling us about affected you?” A “It affected me as far as trust and confiding in someone about stuff. And I just -- well, I know whenever I left care I had nothing, I knew nothing, I had nothing, I lived from friend's house to friend's house. I didn't know how to cook, I didn't know how to clean, I didn't know how to drive.” (Virgil Direct, 207:19-209:2)</p>
<p>12.04.14</p>	<p>Q “Why did you decide to come here today and tell us your story?” (Sharp Direct, 184:1-3)</p>

<p>Sharp Direct, at 184:1-3, 184:20-185:10</p>	<p>A "...I speak to young people all the time who have been in the system and it just -- just age out and their stories are the same. They're struggling. They don't know what to do and we need someone to do something about it because we are failing our young people. I mean, I've been able to sit here and hear some of the testimony today and listen to how other states compare but I don't think that means anything. I don't understand why we can't be a leader in showing the nation how we can be care for our young people because we're just not. You know, when I was growing up, I remember people telling me that I was in the custody of the State of Texas, which I guess means that the State of Texas was my parent. And if that was the case, then the State of Texas failed. They failed at being my parent. They failed at preparing me for adulthood and they failed at giving me a comfortable childhood..." (Sharp Direct, 184:20-185:10)</p>
<p>12.04.14 Sharp Direct, at 182:19-20, 183:7-24</p>	<p>THE COURT: "So in hundreds of people that you've met that aged out, they had the same problems in foster care?" (Sharp Direct, 182:19-20) A "...There is no -- there are no resources out there to help us transition to self-sufficiency successfully. We get about a thousand dollars from PALS and that's basically it and they say, go do everything on your own. You know, it took me -- when I did get my refund check, can you imagine how complicated it is to get an apartment? I mean, I didn't even know how to get an apartment. I was applying for apartments I'd never get into when I was homeless. I mean, I was -- I just -- I didn't have any basic skills and, you know, I know that the Department's defense to that is, well, we have the PALS program but that doesn't do anything for young people. I went through the PALS program and that's great but what really makes a difference is when young people have support systems and they have someone they can call when they're able to make connections with caseworkers or with foster parents. And that's not happening even now and I don't see anything happening that's going to mitigate any of those experiences in the future the Department is doing at the moment." (Sharp Direct, 183:7-24)</p>
<p>12.04.14 Sharp Direct, at 178:19-20, 179:16-181:2</p>	<p>Q "Did DFPS -- did a worker from DFPS give you any help when you were ready to leave foster care?" A "...It's hard to be homeless especially whenever you don't have -- you don't have connections. You don't have people and you don't how to make those connections. I think --THE COURT: How did you do it? THE WITNESS: Well, eventually I had to start doing sex work in order to survive, in order to get resources and that was the way I was able to make money and to purchase food and groceries... At one point in the middle of me being homeless, I went to go and donate blood. You can get money for donating blood and I had done it twice and I went back to it a third time and they told me I couldn't do it anymore because I was HIV positive. And, I mean, I never -- I don't know, I -- it -- I shouldn't have had to deal with those things. I feel like I should have been able to have resources. I don't know. I don't know what could have been done. I should have been in a home. I should have had people I could call. I shouldn't have had to left foster care like that. I should have been able to find a placement in Houston I could have stayed at where I could have stayed at my same school and I could have</p>

	<p>graduated and been able to get in school and then -- and go to college because obviously I can do it but this is the way that it had to happen. It shouldn't have been like that. I should have had better support and I didn't." (Sharp Direct, 179:16-181:2)</p>
<p>12.04.14 Sharp Direct, 181:4-5, 181:11-182:15</p>	<p>Q "How did your experience in foster care affect you, do you think?" (Sharp Direct, 181:4-5) A "...I still have problems with relationships. I have very few friends. I have trouble connecting with people. I have trouble understanding what is a healthy relationship? What isn't? You know, the other day I was -- I'm trying to figure out how -- how to go about purchasing a car and I realized I didn't even know how to do basic things like that and I still have trouble during holidays -- during this past Thanksgiving. I usually spend them alone and I don't have those supports and I don't know how to create them now. I don't really understand what I can do to -- I don't know, to undo some of the things that have happened aside from accept the fact that they have happened and try to believe that it happened for a reason and that maybe somehow in the future I'll be able to use those experiences to help other people. But it certainly shouldn't have happened like that. That's not the way I know the system was designed and I know that, you know, young people now, the stories -- I mean, the faces that I see all the time change but the stories don't. There are still young people who are aging out of our system who are having to do the exact same things. I mean, I can -- I've met at least hundreds of young people in the work that I do -- in the advocacy work through the system and I only know a handful of them who are in college, who are stable, who have jobs and even those of us who are fortunate enough to do that, we still have problems that we're dealing with. I don't think you can ever go back and undo the trauma of being raped by your caregiver, of being beaten by your peers and feeling like you couldn't talk about it and you didn't have any hope and I'm just now beginning to be able to process some of those things." (Sharp Direct, 181:11-182:15)</p>
<p>12.05.14 Ricker Direct, at 203:15-204:24</p>	<p>Q "Do you have any other specific examples that you can recall about specific services that you have had trouble accessing for your clients?" A "We've had trouble as the kids age out. And recently we've had two of these kind of cases come up where the kiddos are just about to age out and they're more than just broken emotionally; they're also physically broken. For example, they may read on a second grade level, but they're 17 and a half, right? So there's even another component added in. But no one has applied for social security. They've -- the social security lawyers tell us if you have two diagnoses then, you know, you're probably going to qualify for social security. Well, these kiddos have multiple diagnoses so we're frantically trying to get them qualified for social security because when they age out, they've nowhere to go. They can't even read. And so in a perfect situation we can transfer the case to DADS, which is I think aging and disability services -- department of -- I quite frankly don't know how they coin their acronym, but it's the adult MHMR (phonetic) type of overseeing group. So there's another case, I just inherited it from another lawyer..."</p>

	<p>Redacted Information is confidential, filed under seal, or otherwise covered by Amended Protective Order. (Docket Entry 138).</p> <p>...Nobody has thought what are we going to do when he ages out? And the problem is that puts you in this giant time crunch to try and do something because once they're 15 you don't have options. Q "Does this -- and what specifically do you do in that kind of a circumstance?" A "Well, in these cases we have asked the judge to give us an order that orders somebody, whoever in the department is supposed to do it, to go apply for social security, go get it done." Q "Isn't that their job to begin with?" A "I don't know why it's not done. I don't have the answers as to why." (Ricker Direct, 203:15-204:24)</p>
12.05.14 Ricker Direct, at 202:19- 203:7	<p>Q "Have you seen -- how does it affect getting children adopted?" A Information is confidential, filed under seal, or otherwise covered by Amended Protective Order. (Docket Entry 138). (Ricker Direct, 202:19-203:7).</p>
12.05.14 Carter Direct, at 129:3 -- 6, 129:12-25	<p>Q "In your experience, so the youth that you have evaluated, done psychological evaluations of, that have had these, that have languished in the care of the State of Texas, how prepared are they for independent living?" (Carter Direct, at 129:3 -- 6) A "The named Plaintiffs who are on the cusp of independence, my position is that none of them have sufficient adaptive living skills that are necessary for even a minimally reasonable chance of a decent lifestyle. None were equipped with vocational training. Those teenagers I saw, 16, 17, 18 year olds, none of them knew how to drive. Of course, none of them have been able to work. They have not had any employment experiences or extracurricular activities in school because that was not available to them. They did not have a family net or a safety net to fall back on for support of any kind, emotionally or financially or otherwise. In other words, when these kids were -- would be let loose into the real world, they were not prepared to take care of themselves and they had no one to back them up." (Carter Direct, 129:12-25)</p>
12.05.14 Carter Direct, at 131:14-24	<p>Q "So after 13 plus years S.A., what sort of educational background had the State given her in its custody?" A "She was the one that told me she had been in over 12 schools and, again, this is one that I felt that she probably was underestimating that by a lot because she had been in 40 plus placements and so, you know, just do the math and she's probably been in way more than 12 schools. But she was not prepared academically for anything other than entry level manual labor, semi-skilled type jobs." Q "Was she optimistic about the future?" A "No. She tried to be, but she wasn't, she was a realist." (Carter Direct, 131:14-24)</p>
12.05.14 Carter Direct, at 127:23- 128:14	<p>Q "How does not, in your experience, how does not -- factually, what have you observed about how not having a permanent -- not finding a permanent home for a child, how that impacts that child?" A "When a person, a child, has no place of belonging that leaves them drifting both figuratively and literally they feel that they</p>

	<p>have no aims, no goals. You know, they don't know what's going to happen when they're an adult. You know, they don't belong to anybody. Their caregivers are people that come and go and, in fact, they've had many, many caregivers, especially those that have been in Residential Treatment, the turnover in those settings typically is high and so they're just drifting. You know, identity disorders are rampant within that -- that population of children, and by 'identity disorders,' again, I'm referencing their capacity to affirmatively answer 'who am I?'" (Carter Direct, 127:23-128:14)</p>
<p>12.05.14 Carter Direct, at 130:2- 131:12</p>	<p>Q "Was S.A. one of the named Plaintiffs that you evaluated that was right on the cusp of aging out?" A "Yes." Q "And how old was she at the time you last evaluated her?" A "She was 18 years old." Q "And she had been in foster care for some 13 years at that point?" A "Since she was 5 years old." Q "How equipped was she to become an independent adult in this world?" A "Not at all. This is another girl, I really liked her. She was a sweet kid and she was doing the best she could." THE COURT: "I'm sorry, her initials?" MR. YETTER: "S.A." THE COURT: "Thank you." THE WITNESS: "She was doing the best she could to make it in life, but she knew that she was a psychological wreck and she spoke of that. She spoke of being scared of being an adult. She spoke of not really wanting to have a family. She kind of did, but she didn't because she didn't want children to experience what she did, and she feared that might happen. She was at a shelter of sorts, it's a placement for young adults who are transitioning into adulthood and was hoping to get some job interviews or maybe to enter a community college. Of course, this girl can't read past the third or fourth grade level, there's no way she could make it in community college. She was in a city that she had never lived in before, knew absolutely no one when she came there, and so here she is in a big city, and it was Austin, Texas, knowing no one, having no real skills, psychologically disturbed and, you know, when she gets kicked out of a placement this time she's on her own, she doesn't get hauled off by a caseworker to a new place, she's on her own, and she seemed to realize that and it worried her." (Carter Direct, 130:2-131:12)</p>

Item 6: All PMC children shall be entitled to an attorney ad litem and a CASA volunteer, as well as any other representative appointed to TMC children that the Special Master determines is necessary for PMC children's safety and well-being.

There is extensive evidentiary support in the record for the various reforms recommended by the Special Masters to address this Item in the Court's Memorandum Opinion and Verdict including, but not limited to, the following:

Document	Quotes
<p>PX1988, Texas Appleseed,</p>	<p>"However, if the child is not reunited with a parent or placed with a relative within a year to 18 months after the date of removal, the court enters an order appointing</p>

<p>“Improving the Lives of Children in Long-Term Foster Care: The Role of Texas’ Courts & Legal System,” at GK0001036</p>	<p>DFPS as ‘Permanent Managing Conservator,’ and the level of scrutiny paid to individual cases significantly decreases—regardless of whether parental rights to the child were terminated at that point. Though the State’s responsibility for the child’s life and well-being does not change—and arguable increases—the attention paid to the child’s cases diminishes drastically. There is often a sense that the ‘clock stops ticking’ when the child enters Permanent Managing Conservatorship (PMC). Texas Applesseed, under the direction of the Supreme Court of Texas Permanent Judicial Commission for Children, Youth and Families, has thoroughly researched how the courts and the legal system can better help children in PMC. The Commission’s request for this study recognized the flaws in the existing system: These children in long-term foster care often receive less intervention from the courts than children in Temporary Managing Conservatorship at a time when more supervision is needed. It is common practice for courts to dismiss both the attorney ad litem and CASA once DFPS takes permanent legal custody of a child. At the same time, court oversight lessens as the Texas Family Code requires courts to hold hearings less frequently after Permanent Managing Conservatorship is granted. Despite shrinking oversight, however, courts are still responsible for outcomes of safety, permanency and well-being for all children on their dockets. As courts are arbiters of what happens to children in foster care, Texas needs to use best practices in its legal system to improve the outcomes of these youth.” (Texas Applesseed, GK0001036).</p>
<p>PX1988, Texas Applesseed, “Improving the Lives of Children in Long-Term Foster Care: The Role of Texas’ Courts & Legal System,” at GK0001038</p>	<p>“Among these issues, the lack of urgency to achieve true permanency for the child is the most pressing problem. Too often absent from the court process is the impetus to act expeditiously to fulfill a foster child’s dream to be in a family, or just to be in a safe permanent home. The entire tenor of the case changes once children enter PMC. It is as if ‘the clock stops ticking’ and ‘the pressure is off,’ since the child is no longer in ‘temporary’ custody of the State. Because the most pressing legal issue—whether a child will be returned home—has been determined, there is a sense that the child has achieved some “permanency.” Even the name of the child’s status implies stability’ the child is now in ‘Permanent Managing Conservatorship.’ Nothing is farther from reality.” (Texas Applesseed, GK0001038)</p>
<p>PX 1988 Texas Applesseed, “Improving the Lives of Children in Long-Term Foster Care: The Role of Texas’ Courts & Legal</p>	<p>“There is no one person or group of people who take responsibility and is held accountable for how the child is faring. Ideally, the child’s caseworker would truly know and have responsibility for the child’s well-being, as well as his health and safety. The reality is that CPS’ crushing workload and the high level of burnout and turnover makes it impossible for the caseworkers to fulfill that role.” (GK0001038) “... few caseworkers have time to really get to know these children. If a child has a CASA, the CASA usually is the one person who truly knows how the child is really doing. However, most children in PMC do not have CASA volunteers.” (GK0001038)</p>

System,” at GK0001038	
12.01.14 McCall Recross, at 71:10-72:3	Q “All right. That's perfect. We were talking about the differences between PMC and TMC. Now, again, TMC children are with the State for 12 months and sometimes as long as 18 months.” A “Yes.” Q “And there are deadlines in that process, either court deadlines or internal DFPS deadlines, that the caseworker, the primary conservatorship caseworker, has to meet, aren't there?” A “Yes.” Q “Now, in contrast, PMC children don't have those same court deadlines that TMC children have, do they?” A “That's correct.” Q “And to some extent they don't have the same DFPS deadlines as TMC children have, true?” A “Correct.” Q “In fact, there's other things that there's a difference. The PMC children, in many instances, don't get an attorney appointed for them in the court hearings like TMC children do.” A “That varies by court, yes.” (McCall Recross, 71:10-72:3)
12.01.14 McCall Recross, at 73:2-5	Q “One of the things you said, Ms. McCall, is that it's your experience that PMC children tend to have less CASA volunteers that represent them, true?” A “That's what I've heard, yes.” (McCall Recross, 73:2-5)
12.01.14, McCall Recross, at 71:19-24	“Q In contrast, PMC children don't have those same court deadlines that TMC children have, do they?” A “Correct.” Q “And to some extent they don't have the same DFPS deadlines as TMC children have, true?” A “Correct.” (McCall Recross, at 71:19-24)
12.02.2014 Langsley Direct, at 67:22 – 68:3- 19	Q “Have you sensed over your years of regularly representing both TMC children and PMC children that there is a difference in how they -- the attention that's given to them when they change from TMC to PMC?” A “Huge.” Q “How so?” A: “First of all, the court – because the court hearings, the statutorily required court hearings are farther part in PMC. There are fewer contacts. Certain counties dismiss attorney ad litem when the child enters PMC. So they're left with no representation.” THE COURT “The CASA stays?” A “Frequently the CASA stays and the attorney ad litem is dismissed.” THE COURT “Okay.” A “The problem with that is that there is no individual who can bring – set a hearing or file pleadings or bring to attention of the Court that this child needs additional assistance.” (Langsley Direct, 68:3-19)
12.02.2014 Langsley Direct, at 69:2- 9	Q “You were describing how the child might – is moved into PMC by the state gets less attention, in your experience. Any other aspects of that that – in terms of their outcomes and their permanency – move towards permanency that you've seen in practice?” A “You know, I think the more ‘difficult’ a child is perceived to be, the less effort there is to really get that child into a permanent placement.” (Langsley Direct, 69:2-9)

12.02.2014 Talley Direct, at 89: 19-24	Q “Generally were efforts made by DFPS to try to move these 800 children towards adoption or some other form of permanent family?” A “Not at that time, they weren’t. They were – the main goal was to just maintain them in foster care until they aged out.” (Talley Direct, at 89:19-24)
12.05.14 Ricker Direct, at 226:4-10	Q “[W]hat does PMC mean?” A “Well--” Q “Based on your experience” A “—it means you get ignored more in my opinion. You don’t have this fire of determination going on, you’re going to be put in some sort of limbo, permanent limbo until they can find time to receive you in the adoption unit.” (Ricker, Direct at 226:4-10)
12.08.2014, Bowman, Cross at 12:25- 13:2	Q “Now, for TMC children you review that plan, that road map to a permanent home, four times in the first year don’t you?” A “Yes.” (12.08.2014, Bowman, Cross at 12:25-13:2)
12.08.2014, Bowman, Cross at 13:10- 13:20	Q “But when the child turns to PMC, when they get that label permanent managing conservatorship, that really critical plan of service for that child is not reviewed for times a year is it?” A “It’s not required to be, no.” Q “It’s not required to be reviewed four times a year. It’s only required to be reviewed half that many times, right?” A “Correct.” Q “So every six months for the rest of their stay in custody it’s supposed to be reviewed, right.” A “Correct.” (12.08.2014, Bowman, Cross at 13:10-13:20)
12.08.2014, Bowman, Cross at 12:18- 24	Q “And that [service plan] is a very critically important plan to these [PMC] children isn’t it?” A “Yes, it is.” Q “Because it’s the plan that says here’s the road map, here’s the path to get you a permanent home, to get you out of custody of the state of Texas, true?” A “Correct.” (12.08.2014, Bowman, Cross at 12:18-24)
12.12.14 Specia, Cross at 60:18-61:9	Q “Appleseed looked at this and Appleseed made an observation at the very top of the paragraph, the carryover paragraph, about what happens to children when they go into TMC and what Appleseed said is the entire tenor of the case changes once a child enters PMC. Did you hear – do you see that commissioner?” A “Yes.” Q “Do you remember these ‘forgotten children’?” A “Yes.” Q “I didn’t make that up, that was Comptroller Carole Keeton Strayhorn that called her report ‘The Forgotten Children,’ right? That was ten years ago, wasn’t it, Commissioner?” A “Her reports says what it says.” Q “It was ten years ago, wasn’t it?” A “I think so.” Q “And it was titled ‘Forgotten Children,’ wasn’t it?” A “I think so.” (Specia Cross, at 60:18-61:9)
12.03.14 Klager Direct 223:24-225:24	Q “Did she -- was she victimized at another RTC of the State?” A “Yes, she was. She -- at Five Oaks.” Q “Five Oaks?” A “Yes.” Q “Is another RTC. Where is that?” A “That’s outside Houston.” Q “And what happened?” A “She made an outcry that in the middle of the night a staff member came into her room and raped her.” Q “How old was she at that point?” A “Fifteen, 15.” Q “Well, do you know whether

there was an investigation?" A "There was an investigation, but I don't -- I think nothing ever came of it." Q "Was she moved from that facility by the State?" A "No, she was not. They didn't have anywhere else to move her." Q "So she stayed in the same facility with the same staff member that she -- that had raped her for how long?" A "She was there for about a year after that, but the staff member disappeared after it happened, he just never came back." Q "Now did she -- was she ever observed by the people around her with bruises and other signs of physical abuse?" A "Yes, she was. She was subsequently placed back in Hector Garza once again in 2013, March or April of 2013. Things deteriorated once again. She had a CASA worker who went to visit her and she had bruises all over her body from restraints." Q "From physical restraints?" A "Physical restraints." Q "By whom?" A "By the staff." Q "Of Hector Garza, at the same time?" A "Of Hector Garza." Q "What -- did you do anything about that?" A "The CASA worker called it in. I didn't observe the bruising so I was not person that called it in. She called the 1-800-DFPS hotline and once again nothing came of it." Q "Based on your experience what do you think -- what is your experience about what happens to children that are in the DFPS that make objections or complaints or allegations of abuse?" A "I don't think anything happens to correct it. My experience is that sometimes the children are retaliated back against. I know M.D. said after she had made the outcry at Five Oaks the staff were very mad at her, that one staff member had even threw her down in her restraints. There's a mentality if you outcry you're going to pay for it, and it also became an issue where we couldn't find other RTCs to take her because of the outcries. All I know is what the caseworker would tell me is these RTCs won't take her, she's a liability, they don't want to get sued, she makes outcries." (12.03.14 Klager Direct 223:24-225:24).

Item 7: The Special Master shall recommend any provision beyond the Court's goals that are deemed necessary to cure the State's constitutional violations outline in this Opinion.

There is extensive evidentiary support in the record for the various reforms recommended by the Special Masters to address this Item in the Court's Memorandum Opinion and Verdict including, but not limited to, the following:

Documents	Citations
PX2015, William Lee Carter, Common Types of Harm Identified in Psychological Evaluations of the Named	Information is confidential, filed under seal, or otherwise covered by Amended Protective Order. (Docket Entry 138). (Carter, 9 – 10)

Plaintiffs, at 9-10.	
PX1273, DFPS Statewide Placement Quality and Capacity Needs Analysis, Deliverable 5 Report, University of Houston, at DFPS005161777.	“Children suffer trauma when separated from siblings.” (DFPS, DFPS005161777)
PX1988, Texas Appleseed, Improving the Lives of Children in Long-Term Foster Care: The Role of Texas’ Courts & Legal System, at GK0001030-31	“Children aging out of long-term foster care [PMC] face difficult challenges, including: - Low educational attainment; - Substance abuse; - Bouts of poverty, unemployment, and homelessness as adults; - A high incidence of serious, and in some cases disabling, physical and mental health care issues; - Increased likelihood of justice system involvement; - High rates of early pregnancy; - Manifestations of post-traumatic stress disorder induced, not only by parental abuse and neglect, but also by the upheavals and ‘losses’ associated with the traumas and frequent moves and transitions experienced in foster care.” (Texas Appleseed, GK0001030-31)
PX2037, Viola P. Miller, Overloaded Caseworkers, an Inadequate Placement Array, and Harm to Children in Texas, at 37.	“Children need stability in their lives. Each move that a foster child experiences interrupts normal development and adds psychological trauma, with long-term implications for the child’s ability to develop healthy interpersonal relationships, good self esteem, and even a conscience.” (V. Miller, 37) (internal citations omitted).
PX2015, William Lee Carter, Common Types of Harm Identified in Psychological Evaluations of the Named Plaintiffs, at 6	Information is confidential, filed under seal, or otherwise covered by Amended Protective Order. (Docket Entry 138).

<p>PX2015, William Lee Carter, Common Types of Harm Identified in Psychological Evaluations of the Named Plaintiffs, at 7-8</p>	<p>Information is confidential, filed under seal, or otherwise covered by Amended Protective Order. (Docket Entry 138).</p>
<p>PX1966, Stephen M. Ryan, Texas Applesed, Texas Foster Care: Current Issues, Reform Efforts and Remaining Problems, at PLTF0006542</p>	<p>“But even fundamentally normal children who have been taken from their homes and families can become aggressive and ‘emotionally reactive’ due to a lost sense of trust, and their conditions are only worsened by multiple placements and frequent caseworker turnover.” (PX1966, PLTF0006542).</p>
<p>12.03.14 Klager Direct, at 226:18 - 227:25</p>	<p>Q “Now has -- have you talked to M.D. about when she actually reports abuse what happens?” A “If M.D. -- if she reports to staff nothing is going to happen.” Q “How old is M.D. -- how old is M.D. today?” A “She's 17.” Q “So is she still in the Permanent Managing Conservatorship of the State of Texas?” A “Yes, she is.” Q “Do you know what facility the State is now keeping her at?” A “She's on the street somewhere.” Q “And what is she -- how has the State allowed her to go on the streets?” A “She was placed in Guardian Angel.” Q “Which is what?” A “It's an RTC in Houston. She was placed there in November of 2013 from Hector Garza.” Q “And when she was sent from -- when she was transferred from the Hector Garza RTC in San Antonio to Houston, was she sent with all of the information and the medical information that she needed?” A “No, she -- my understanding was Guardian Angel did not know that they were receiving a child who had a history of self-harming, a child who had a history of running, a child that had actually been off her medications for 30 days, it wasn't a very good transfer.” Q “So when M.D. got to Houston, got to Guardian Angel, what happened?” A “Within a week she ran away, and then she was found by the Houston Police Department at a park within several days. She advised she had been selling her body to men for money. She, that same day, was actually returned to Guardian Angel. There was never a rape kit done, nothing happened.” (Klager Direct, 226:18 - 227:25)</p>
<p>12.03.14 Voelkel Direct, at 16:2-23</p>	<p>Q “Did the -- you've described the many responsibilities that a PMC unit conservatorship worker had in Lubbock, and one of those responsibilities was documentation and paperwork.” A “Yes.” Q “Did the size of your caseload impact your ability to do that paperwork?” A “I believe it did, yes.” Q “Can you</p>

	<p>describe that for us, please?" A "It's very difficult to -- documentation is the most important thing. And I can go on forever about this, but when you get a case that's transferred to you and there's nothing in the case file, there's no documentation, we don't know what happened during the last home visit, we don't know what medication the child is on, we don't know when their last -- any educational issues or what their grades are like. When you don't have documentation, it makes it extremely difficult to pick up a case when you're -- when you receive it." Q "Can a lack of documentation expose a child to potential harm?" A "I would say potentially yes, because if you're not documenting what's going on, if it -- if you don't document it, it didn't happen." (12.03.14 Voelkel Direct, 16:2-23)</p>
<p>12.03.14 Jackson Direct, at 191:8-18</p>	<p>THE COURT: "Were you physically abused in any of these placements?" A "Yeah, there was times when I was restrained and slammed to the ground and I was knocked out, just some of the stuff -- they didn't like me because I was angry, I had attitude problems and they would just use that as oh, well, he had an attitude and I have to restrain him, but no one ever examined me and said, 'Oh, well, he has a busted lip or his eye is swollen because he's been slammed on the ground.'" THE COURT: "Nobody ever looked at that? A "No, nobody really cared." (12.03.14 Jackson Direct, 191:8-18)</p>
<p>12.04.14 Burry Direct, at 23:13-25:10</p>	<p>Q "So tell me -- tell the Court, please, what other events generally are noteworthy about S.A.'s history with DFPS?" A "So as I testified, she came into care at age five and when she was still five and in a therapeutic foster home, she disclosed that she had been sexually abused by an 11 year old boy in that foster home. She was not moved -- the 11 year old was not moved." THE COURT: "Disclosed that she was what?" A "Sexually abused by an 11 year old boy in the foster home." THE COURT: "What was her age?" A "Five." THE COURT: "At five?" A "Yes, ma'am." BY MS. LOWRY: Q "And how long did she and the 11 year old stay in the same foster home?" A "Well, he was not moved according to the record during the time that she remained there. She was not moved for a little over a month, although she did have a two week psychiatric hospitalization during that month. So --" THE COURT: "Two weeks and at age five?" A "Yes, your Honor." BY MS. LOWRY: Q "And then after the psychiatric hospitalization, she went back to the same foster home?" A "She went back to the home and the record did not indicate-- well, what the record stated was that the facility did an internal evaluation of the incident and found no evidence of non-compliance. I'm just quoting from the record about the incident." THE COURT: "The facility itself?" A "The facility did an internal evaluation-- investigation of that event." THE COURT: "I don't know what that means." A "It -- what the record says is --" THE COURT: "It is what it is -- says." A "It's what it says is that the facility did an internal investigation of that allegation and found no evidence of non-compliance." THE COURT: "Of their own non-compliance?" A "Yes, your Honor." THE COURT: "Was there an indication in the file that the department -- the Texas Department did an investigation?" A "There was no other indication in the record of an investigation or of therapy for S.A. at the time, except that she</p>

	did have -- was placed in a psychiatric hospital for two weeks.” (12.04.14 Burry Direct, 23:13-25:10)
12.08.14 Vasquez Direct, at 204:16-205:6	Q “Have you observed the impact on your clients flowing from the absence of placements in Cameron County that cause them to be shuttled off to other regions or other towns?” A “Well, it effects them emotionally and educationally. Our children are being placed in schools that are near those centers that they’re shipped off to so educationally for the older group, older children, they might miss credits. They might fall behind on their rankings, their schoolwork, and so it’s difficult for them academically. Emotionally the impact, they don’t get the stability of meeting with the therapist that they can continue throughout their stay in the foster care system and for our children it’s difficult to open up to caseworkers and therapist and if we’re shipping them off to other facilities it’s difficult for them to develop that bond to be able to start the healing process for them and so emotionally it has a very adverse effect on them.” (12.08.14 Vasquez Direct, 204:16-205:6)
12.04.14 Sharp Direct, at 181:4-5, 182:11-18	Q “How did your experience in foster care affect you, do you think? (12.04.14 Sharp Direct, 181:4-5) A “...I don’t think you can ever go back and undo the trauma of being raped by your caregiver, of being beaten by your peers and feeling like you couldn’t talk about it and you didn’t have any hope and I’m just now beginning to be able to process some of those things, even being able to come here today and talk about them in a way that makes sense. And I think that’s what a lot of us are dealing with.” (12.04.14 Sharp Direct, 182:11-18)
12.03.14 Jackson Direct, at 188:23-189:24	THE COURT: “And did you graduate from high school?” A “Yes, ma’am. I actually – graduated earlier than all the rest of the kids.” BY MS. LOWRY: Q “And how did that come about?” A “Well, I got kicked out of another foster home and I got kicked out of school, and when I moved to homes, I went to enter the school and they wouldn’t leave me because it was near the end of the year and it was already in the mid-second semester, it was in March, and they gave me an opportunity to go to a computer-based learning school where I could just get all my credits off the computer and graduate early. So I did that and for about a week I stayed up with no sleep until I finished school.” Q “Okay, so you have a high school diploma now?” A “Yes, ma’am.” Q “Do you – did you like school when you went to school?” A “When I stayed in Louisiana I was like a star student, I really did like school, it seemed easy to me. When I moved to Texas and I started moving around a lot I -- it wasn’t that I didn’t like school, it was just I didn’t feel comfortable, I just didn’t do it want to do it anymore because I didn’t care and they didn’t care, the people that were taking care of me didn’t care if I went to school or not, the foster system didn’t care if I went to school, so why should I care? And that’s when I kind of started to build up not just school, but my life, too.” (12.03.14 Jackson Direct, 188:23-189:24)

12.03.14 Jackson Direct, at 195:14-24	Q “How do you think being in foster care in Texas affected you?” A “It affected me like -- it just -- it hurt me, it hindered me a lot. Like for Thanksgiving or holidays, I didn't have anybody to turn back to like, "Can I come to your home and eat dinner?" I didn't have family to turn back to because I was never stable to build relationships to say, ‘Hey, I'm going to come back and have dinner with you,’ or things like that. It really just hurt me people-wise and being able to trust people or talk to people. That's one of the biggest problems I do have is trusting and talking to people.” (12.03.14 Jackson Direct, 195:14-24)
12.04.14 Sharp Direct, at 169:5-24	Q “And you assaulted by -- not by name but by what category of person?” A “One of the staff, one of my caregivers but also by my peers, too. It was common, you know, in those type of settings for stuff like that to happen and it wasn't -- certainly wasn't unique to the Nelson Center and it wasn't unique to me. I found out towards the end of my stay at the Nelson Center that there were other young boys who had also been raped by this caregiver. And the challenging part about this is that we never had an opportunity to report and, I mean, when you have someone who is monitoring you every day and your access to the outside world is so restrictive, you do not have the opportunity to report these things and it just -- it wasn't -- it wasn't going to happen. In fact, I can remember being on the phone with my worker sometimes and him being right there.” Q “The man who raped you?” A “Yeah, yeah. And I remember thinking that even if I did get the chance to tell somebody about these things that nobody would believe me. Nobody certainly would do anything.” (12.04.14 Sharp Direct, 169:5-24)
12.04.14 Sharp Direct, at 170:5-20	Q “Why did you think nobody would believe you if you reported it?” A “There's a culture of mistrust in the system. Workers, I think -- or young people don't build relationships with people in a way that allows them to share these things where they can trust people. I mean, you come from a background where you've been traumatized and you've had to deal with a lot of different things that have caused you to end up in the system and then on top of that, there's abuse in the system. And I can tell you I've had the opportunity to work with a lot of young people since aging out who are recently in the -- recently aged out of the system, some still in the system and the stories are all the same. I've never met a young person who stayed at an RTC that hasn't been abused and hasn't felt like they wouldn't be able to report it and somebody believe them.” (12.04.14 Sharp Direct, 170:5-20)
12.04.14 Sharp Direct, at 175:24-176:17	Q “Do you know whether any of the incidents in which young people were assaulted were reported to DFPS?” A “I can't say I do, no. I do know that it is challenging to report things in the system. I know that I experienced a lot of abuse and that my story is not unique and that this is something that happens across the system to young people and I didn't know how to report it. I would think now being a social worker and having, you know, looked at the system from another perspective that it would be the duty of the caseworker to -- you should be able to report to them but I didn't know there was a number that I could call. Even if

	<p>there was, I wouldn't have access to it. I didn't have anyone who I felt comfortable reporting these things to and I think these are the feelings of most children in the system and so I can't imagine that DFPS would even be able to understand the depth of abuse that happens in the system and I certainly wouldn't be able to trust any -- I don't know, any number they tried to put on anything because there is abuse happening all the time that simply is not being reported." (12.04.14 Sharp Direct, 175:24-176:17)</p>
12.03.14 Bentley Direct, at 63:2-63:4	<p>Q "Ms. Bentley, were you ever sexually abused while you were in foster care?" A "Nonstop, pretty much every home I lived in except one." (12.03.14 Bentley Direct, 63:2-63:4)</p>
12.03.14 Bentley Direct, at 63:15-64:20	<p>Q "Were you aware of caseworkers visiting these various placements you were in?" A "Sometimes yes and a lot of times when the caseworkers would come and I would know that they were there, I mean, I was really relieved when they would come. But it was rare." Q "Why were you --" THE COURT: "Once a month or how much?" A "I wouldn't even say once a month. Like I would barely see the caseworkers that I would have. When I was in foster care -- of the time that I spent in care I only remember specifically two caseworkers and like seeing one, but it was rare. Like I wouldn't even say it was once a month or for any amount of time --" THE COURT: "When you told them about -- were you able to tell them about the sexual abuse or did you not want --" A "Well, when they would come, a lot of times when they would visit with me, the foster parents --" THE COURT: "Were right there." A "-- and my abuser was -- would be right there, so it would be kind of hard to tell them what was going on. And there were times where I would hint at abuse, but it was like I couldn't really explain; and if I did hint at abuse and my foster parents or my abuser was right there, the abuse would continue after the CPS worker left. So -- and I don't necessarily think that the caseworkers knew what signs to look for, you know, when asking a child if they're being abused right in front of their abuser. So -- yeah." Q "Did you feel that there were any caseworkers that you could confide in for your safety?" A "No." (12.03.14 Bentley Direct, 63:15-64:20)</p>
12.03.14 Bentley Direct, at 66:19-67:7	<p>Q "In addition to being sexually assaulted, were you also physically assaulted?" A "Yes, I was beat all the time." Q "And so were these beatings -- did these beatings result in physical marks on your body?" A "Yes, specifically the home that I told you that I was living in with my aunt, there were situations where I would go to school and I would have bruises on my body and my teachers would be like, where did that come from. And I would always try to like, you know, make something up, or I fell or -- but it was very apparent that I was being abused. And I think that at certain points in time, people would call CPS and it would just get written off as, oh, she just says that, you know, she just says that because she's traumatized, something like that." (12.03.14 Bentley Direct, 66:19-67:7)</p>

<p>12.03.14 Klager Direct, at 223:24-225:24</p>	<p>Q “Did she -- was she victimized at another RTC of the State?” A “Yes, she was. She -- at Five Oaks.” Q “Five Oaks?” A “Yes.” Q “Is another RTC. Where is that?” A “That's outside Houston.” Q “And what happened?” A “She made an outcry that in the middle of the night a staff member came into her room and raped her.” Q “How old was she at that point?” A “Fifteen, 15.” Q “Well, do you know whether there was an investigation?” A “There was an investigation, but I don't -- I think nothing ever came of it.” Q “Was she moved from that facility by the State?” A “No, she was not. They didn't have anywhere else to move her.” Q “So she stayed in the same facility with the same staff member that she -- that had raped her for how long?” A “She was there for about a year after that, but the staff member disappeared after it happened, he just never came back.” Q “Now did she -- was she ever observed by the people around her with bruises and other signs of physical abuse?” A “Yes, she was. She was subsequently placed back in Hector Garza once again in 2013, March or April of 2013. Things deteriorated once again. She had a CASA worker who went to visit her and she had bruises all over her body from restraints.” Q “From physical restraints?” A “Physical restraints.” Q “By whom?” A “By the staff.” Q “Of Hector Garza, at the same time?” A “Of Hector Garza.” Q “What -- did you do anything about that?” A “The CASA worker called it in. I didn't observe the bruising so I was not person that called it in. She called the 1-800-DFPS hotline and once again nothing came of it.” Q “Based on your experience what do you think -- what is your experience about what happens to children that are in the DFPS that make objections or complaints or allegations of abuse?” A “I don't think anything happens to correct it. My experience is that sometimes the children are retaliated back against. I know M.D. said after she had made the outcry at Five Oaks the staff were very mad at her, that one staff member had even threw her down in her restraints. There's a mentality if you outcry you're going to pay for it, and it also became an issue where we couldn't find other RTCs to take her because of the outcries. All I know is what the caseworker would tell me is these RTCs won't take her, she's a liability, they don't want to get sued, she makes outcries.” (12.03.14 Klager Direct, 223:24-225:24)</p>
<p>12.03.14 Virgil Direct, at 200:6-12</p>	<p>Q “And was one of the things that you kept your mouth shut about being sexually abused by one of your foster families?” A “I tried to report it and the person that dropped me off at the home was my caseworker at the time, she handed me a number and said ‘if anything happens, call.’ I tried to call, I tried to report it and it was like, ‘okay, we'll investigate it’ and then nothing ever happened.” (12.03.14 Virgil Direct, 200:6-12)</p>
<p>12.05.14 Carter Cross, at 158:5-159:1</p>	<p>Q “Have you ever attempted to identify common types of harm suffered by a group of children in a forensic evaluation?” A “That's not been a question asked of me. I do see commonalities in the evaluations I do, but I've not been asked specifically outside this particular project, to do that in a conglomerate --” THE COURT: “What are the commonalities?” A “The commonalities -- I see commonalities in children. For example, when I evaluate kids it's --” THE</p>

	<p>COURT: "I'm talking about in foster care." A "Yeah, right. It's not uncommon for me to hear them speak of the ways they've been hurt or abused or bounced around or, you know, separated from their siblings or" – THE COURT: "In foster care?" A "Yes. That -- this is certainly not the only time I've done evaluations where I've heard these stories." THE COURT: "And you hear these -- I asked you earlier and you said that was -- it's even worse for children in Permanent Managing Conservatorship." (12.05.14 Carter Cross, 158:5-159:1).</p>
<p>12.03.14 Carpenter Direct, at 20:11-25</p>	<p>THE COURT: "And the sexual abuse they talk about is child to child as well as staff to child?" A "Yes, yes, ma'am. Yes." THE COURT: "And that's mostly your experience with the RTCs?" Q "There -- I know of some situations where children or -- have been family foster homes or groups homes where there's older kids and younger kids and they've sexually abused there." THE COURT: "Thank you." BY MR. YETTER: Q "Do you have a couple of --" THE COURT: "Is this the usual rather than the unusual --" A "Yes." (12.03.14 Carpenter Direct, 20:11-25)</p>
<p>12.03.14 Carpenter Direct, at 16:15-18:22</p>	<p>Q "In these 180 young people that have aged out the Texas DFPS --" THE COURT: "Can I ask just a brief --" MR. YETTER: "Certainly, yes." THE COURT: "-- clarification? You said you started" out doing the Kinship help as well." A "Uh-huh." THE COURT: "When you come with a hundred-and-eighty figure, are those all adults aged out --" THE WITNESS: "Yes." THE COURT: "-- or are they mixed?"</p> <p>A "No. Kinship is a separate program." THE COURT: "So this is all adults?" A "Yes." THE COURT: "Okay, thank you." BY MR. YETTER: Q "What -- have you seen the consequences of them not being able to create relationships with their caseworkers and not even knowing who some of their caseworkers were? I mean, how do they come out of this system in terms of who they trust, who they rely on?" A "Well, basically the youth that I work with have given up on people as far as they don't trust people. They don't trust people to keep their word. They don't trust that they're going to show up, that they're going to do what they say they're going to do not -- and because of how they've been let down in the system, because of the amount of moves they've made. I mean, most of the youth that I work with have moved 12, 14, 17 times in their time in foster care." Q "Have you heard stories about -- from the children about the caseworkers and how busy the caseworkers are?" A "I've heard stories of their calls not being returned. I've heard -- you know, with serious issues where they are -- you know, they're trying to talk about what's happening to them and where they are and they're not getting calls back." THE COURT: "Have you heard stories of abuse in -- while in foster care?" THE WITNESS: "Yes, ma'am." THE COURT: "What kinds?" A "I mean, yes, your Honor." THE COURT: "Pardon?" THE WITNESS: "Yes, your Honor." MR. YETTER: "Just we're all trying. This is --" THE COURT: "I was not too nice with Mr. Albright last time. So he remembers all these little things." A "Okay." THE COURT: "So what kind of abuse?" A "The abuse ranges from mental abuse, you know, emotional abuse, having just the</p>

	<p>name-calling -- and these are -- the reason that I know this is because these are still playing in these kids' heads today. I mean, they're -- it hampers their successfulness because they believe what they've been told. And then physical abuse, you know, with restraints and then sexual abuse from other clients in RTCs and staff." BY MR. YETTER: Q "Are these uncommon stories that you're hearing?" A "No." (12.03.14 Carpenter Direct, 16:15-18:22)</p>
<p>12.03.14 Carpenter Direct, at 32:12-24</p>	<p>THE COURT: "And what happened to Ms. Bentley -- did you hear her testimony about her sexual and physical abuse in every placement she had but one?" A "I've heard it before. I did not hear it this morning." THE COURT: "Is that typical or atypical?" A "My experience with sexual abuse has been that once it has occurred and happened to a child that they do become re-victimized." THE COURT: "So is that typical in a foster care situation or not so typical?" A "I would say that 50 percent of the kids that I work with have been sexually abused." (12.03.14 Carpenter Direct, 32:12-24)</p>
<p>12.05.14 Ricker Direct, at 218:15 - 219:11-21.</p>	<p>Q "Ms. Ricker, the State maintains some data on the number of -- or percentage of maltreatment reports that are found reason to believe, which is the State's term for substantiated, and it's a low rate. Given what you've been observing, do you have any reaction to the fact that the State reports a low rate in terms of what you've been seeing?" THE COURT: "You know, have you seen that chart?" A "I can't answer that." THE COURT: "Could you all pull that up?" A "I saw one chart on the board but I couldn't read it." THE COURT: "It had 91 percent that they ruled out abuse." A "I haven't seen that." THE COURT: "And then the other two percentage is small whereas they found abuse, and the other was they couldn't tell." A "That's not what I see." THE COURT: "There." A "That's not what I see." BY MS. LOWRY Q "Okay, can you see it or --" A "I see it. But in my life with these children, that is not what I see. I mean, how could you go to a place and find a kid unmedicated and unclothed, or find a kid with long fingernails, or find a kid with a black eye, or find a kid who has nothing in his room that fits or is appropriate, how can you -- that's not what I see. And this is just stuff I see when I take a vacation and happen to drop in. This is just random for me. I don't mean random like random-random. I mean I'm unannounced, I'm not calling ahead, I'm just checking to see if what's going on is really happening." (12.05.14 Ricker Direct, 218:15 - 219:11-21)</p>
<p>12.03.14 Carpenter Direct, at 13:5-8</p>	<p>Q "In the last few years since you started this transitional living program, how many young people have you served?" A "A hundred and eighty -- approximately a hundred and eighty." (12.03.14 Carpenter Direct, 13:5-8)</p>
<p>12.03.14 Carpenter Direct, at 23:24-24:10</p>	<p>Q "What have you concluded about abuse in this Texas DFPS based on the stories that you've heard?" A "It is way too prevalent. It is the -- it is not the anomaly. It's the norm. It's the norm. It's -- and I just -- I don't -- it's crazy to me." Q "How is -- you mentioned mental and emotional abuse. How are you seeing that affecting the youths that are now coming to Angel Reach?" A "They</p>

	<p>don't believe that they can succeed. I mean, it's -- and they don't trust people. It takes us, you know, a good 18 months to two years to undo the layers of damage that are going on with these -- with the youth." (12.03.14 Carpenter Direct, 23:24-24:10)</p>
<p>12.05.14 Ricker Direct, at 216:11-218:11</p>	<p>Q "Now, have you been aware of any instances of sexual abuse of the children in your cases?" A "Yes." Q "And just tell us generally what you're aware of." A "They get touched by some form of inappropriate sexual abuse, almost all of them." THE COURT: "In foster care?" A "Yes." THE COURT: "In permanent managing conservatorship?" A "Yes." THE COURT: "So that's typical of what happens to children in foster -- in permanent managing foster -- I'm sorry, permanent managing conservatorship in foster care?" A "That is what I see, your Honor. I had one girl who was in a group foster home, they had to have respite care so she -- they put the girls in with boys in another home. She was raped --" THE COURT: "You mean in their room or just in a --" A "I don't have that answer. She was put in another house because they needed respite care. She was raped. She was then sent to a different home in Amarillo where she told them to save my clothes. She knew she needed to save the clothes for the evidence in them. The clothes disappeared, and to this day she still wants resolution of what happened, why didn't that rape get prosecuted." THE COURT: "And where did that happen? Do you know?" A "Off the top of my head, I apologize to you, I don't. It's north. I want to say --" THE COURT: "Did you report it?" A "I represented the mom --" THE COURT: "Okay." A "-- okay, so I reported it to the ad litem and the caseworker and I called the RTC that she was in to see about the clothing. But my understanding is a report was made to law enforcement. And whether a report was made to CPS, I can't --" THE COURT: "Do you think you could get that information to see -- well, you reported to the caseworker so that's what happened, right? You said you --" A "The caseworker and the ad litem." THE COURT: "Yeah. So if you could give me a place and a date, we can have -- see what happened with that." A "I can go back and look that up, your Honor." THE COURT: "And maybe you could." MS. LOWRY: "Yes, your Honor, we'll bring it to the Court and to the State." THE COURT: "And then we'll see what happened to the report." MS. LOWRY: "Yes, your Honor, if that would be helpful." (12.05.14 Ricker Direct, 216:11-218:11)</p>
<p>12.05.14 Ricker Cross, at 267:20-268:21</p>	<p>Q "You mentioned that you represented a mom in a situation where a young girl had been put into a house and there had been a sexual abuse and that her clothes disappeared. Do you recall that sequence of events?" A "Yes." Q "And was that with respect to a child where you had been appointed as an ad litem?" A "No. I represented the mom." Q "And in that case, the child, do you know the child's initials?" A "A. B." Q "And was --" THE COURT: "Pardon?" A "A. B." BY MR. ALBRIGHT: Q "And was A. B. in PMC?" A "I doubt it because at that point I still represented the mom." Q "Okay." A "I mean, she went I believe into PMC." Q "But the event happened in what type of facility?" A "She was in a home -- a group home so -- for placement and then the respite care was some other type of</p>

	group.” THE COURT: “Can you give us around the date of the month and the year of when the rape occurred?” A “It’s in ‘11, sometime in ‘11. And, Judge, I can look in my files and get that for you.” (12.05.14 Ricker Cross, 267:20-268:21)
12.02.14 Black Cross, at 58:5-11	Q “‘Frequent placement changes causing further instability to already chaotic lives.’ That’s a true statement, isn’t it?” A “Yes, sir.” Q “That hurts children, doesn’t it? ‘Frequent placement changes causing further instability in already chaotic lives.’ That’s – that hurts children, doesn’t it?” A “Yes, sir.” (12.02.14 Black Cross, 58:5-11).
12.05.14 Carter Redirect, at 194:4-15	Q “Do you -- how injured have these 12 named Plaintiffs been from being in the custody of the permanent managing conservatorship of the State of Texas?” A “Substantially.” Q “And is it temporary or is it permanent?” A “Permanent.” MR. YETTER: “Thank you, your Honor. I pass the witness.” THE COURT: “Is what happened to these children typical of foster care in general in permanent managing conservatorship?” THE WITNESS: “Unfortunately, yes.” (12.05.14 Carter Redirect, 194:4-15)
12.05.14 Carter Redirect, at 190:18-191:12	Q “Do you believe that D. I. -- that the State of Texas helped D. I. or hurt D. I. by having him in the system in which he was put into a foster group home and repeatedly sexually assaulted?” A “That hurt him greatly.” Q “Do you believe that the injury that was inflicted on D. I. while he was in the custody of the State of Texas, the permanent managing conservatorship, that that injury continues to affect that child today?” A “Without question.” Q “And in what way?” A “He still continues to be a very disturbed boy. His now adoptive mother says she cannot leave him out of her sight. He is a heavily sexualized boy who she seems to recognize is a high risk for sexually harming children, including her own five-year-old granddaughter. When he’s at school, he’s in trouble virtually daily. She doesn’t have control over him at school. When he’s at home, she keeps him in the home. When she leaves the house, he goes with her. He’s with her 100 percent of the time to the degree possible.” (12.05.14 Carter Redirect, 190:18-191:12)
12.05.14 Carter Direct, at 122:14-20	Q “And what did you -- what conclusions did you draw about her as -- and the impact of the Texas foster care system on this poor child?” A “She came into care young. When she came into care she came from a very bad home situation, but in the time she spent in State care she never really achieved any kind of lasting stability” (12.05.14 Carter Direct, 122:14-20)
12.05.14 Carter Direct, at 114:16-115:23	Q “What sort of a placement history did J.S. have?” A “He’s another one that has been in many settings including foster homes, Residential Treatment Centers, psychiatric hospitals, you know, again, as with so many of these children, no stability. He has some severe attachment deficits. I think he came into care with attachment deficiencies, but they have worsened over time simply because of the fact that he was provided no stability whatsoever, and so here he is on the cusp of

	<p>adolescence and he still has not –“ THE COURT: “How old is he?” MR. YETTER: “Twelve years old, your Honor, he’s been in care for seven years, he came in at 5.” THE WITNESS: “Right. And he still doesn’t have a place of belonging.” BY MR. YETTER: Q “Educationally, what sort of situation is J.S. now?” A “He’s a virtual nonreader.” Q “At 12 years old?” A “Right.” Q “Did he mention anything about incidents with other children?” A “He did not like talking about other children and yet he told me the first time I saw him that he had been ‘sexualized,’ that’s the term he used, and that was with great embarrassment that he told me that. By that I clarified ‘Do you mean sexually abused or touched inappropriately?’ and he, at least, acknowledged that but he did not want to talk about it or give me details.” Q “When you first saw him in 2012 he was 10?” A “Yes.” Q “And he used the word ‘sexualized?’” A “Yes, ‘I was sexualized by another boy’ is the term he used.” (12.05.14 Carter Direct, 114:16-115:23)</p>
<p>12.05.14 Carter Direct, at 109:16-110:25</p>	<p>Q “Dr. Carter, you were explaining D.I.” A “Can you tell me what you want me to tell about him?” Q “Sure. You were -- the incident that he had in that of being sexually abused.” A “When I first started talking with him I had a real good rapport with him and I noted in my report that he seemed eager to talk to me about his experiences in foster care. And so it was quite easy for me to just open it up and say, ‘Well, tell me about it.’ And so it’s interesting that when I made a statement of that broad nature the first thing he told me about was being sexually abused, and what he said was, ‘Well, what those boys did to me.’ And I asked him, ‘Well, what do you mean by that?’ And he told me that he had been sexually abused and then he said ‘there were a bunch of episodes,’ and it didn’t take much for him to catch himself talking about something that really hurt. On the one hand he wanted me to know about it and he wanted to know that this is something that really bothers him because he defines himself by it, but then he got real anxious and talked to me and spoke, you know, quite animatedly saying, ‘Hey, I didn’t just let them do it, I mean, I didn’t want them to do that, it was them, not me.’ And then he spoke of how, ‘Well, that doesn’t mean I’m gay. I don’t want you to think something about me.’ And he was telling me more about himself than he was these other children or, you know or what I might think of him. He was saying that ‘this really bothered me. You asked me about my life in foster care. Well, the one thing that I can remember that stands out is being sexually abused and I’m really embarrassed because I don’t want you to think badly of me the same way I think badly of me.’” Q “Did D.I. talk about being in another home where he saw other children being sexually abused?” A “He did. He told me that he was in a home where some girls, to his knowledge and assumption, had been sexually abused.” (Carter Direct, 109:16-110:25)</p>
<p>12.05.14 Carter Direct, at 101:12-18</p>	<p>Q “How do you think his moving around from placement to placement, shelters, foster homes, psychiatric hospitals, RTCs, had impacted him in your professional opinion?” A “It has done nothing to give him a sense of security. He has some pretty bad attachment deficits. That’s a very common thing you see in these kids.</p>

	Attachments to others tend to be very poor.” (12.05.14 Carter Direct 99:22-100:5, 101:12-22).
12.04.14 Sharp Direct, at 171:4-22	Q “Were you assaulted more than that time at the Nelson Center while you were in foster care?” A “Yes, not sexually though.” Q “So what other kinds of assault? Were you beaten up?” A “Restraints were used -- commonly used in the system as a way to punish young people. I have carpet burns up and down my legs from times I had been restrained in group homes and in foster homes where I’ve been thrown down and restrained in a way that has caused -- you know, caused me to be hurt, caused me to feel pain and I certainly think that that is a type of abuse. I think that there is a lot of psychological abuse in the system, too, with caregivers and staff members particularly at RTCs using the power that they have over you to cut access to food, cut access to opportunities to speak with your family, opportunities to go outside and participate in regular developmentally appropriate activities. That happened a lot.” Q “Was it scary being a young preteen, teenager and thinking that you might get assaulted or raped again?” A “Yeah.” (12.04.14 Sharp Direct, 171:4-22)
12.04.14 Burry Direct, at 23:13-24:8	Q “So tell me -- tell the Court, please, what other events generally are noteworthy about S.A.’s history with DFPS?” A “So as I testified, she came into care at age five and when she was still five and in a therapeutic foster home, she disclosed that she had been sexually abused by an 11 year old boy in that foster home. She was not moved -- the 11 year old was not moved.” THE COURT: “Disclosed that she was what?” THE WITNESS: “Sexually abused by an 11 year old boy in the foster home.” THE COURT: “What was her age?” THE WITNESS: “Five.” THE COURT: “At five?” THE WITNESS: “Yes, ma’am.” BY MS. LOWRY: Q “And how long did she and the 11 year old stay in the same foster home?” A “Well, he was not moved according to the record during the time that she remained there. She was not moved for a little over a month, although she did have a two week psychiatric hospitalization during that month. So--” THE COURT: “Two weeks and at age five?” THE WITNESS: “Yes, your Honor.” (12.04.14 Burry Direct, 23:13-24:8)
12.04.14 Sharp Direct, at 168:4-8 and 168:20-169:13	Q “Were you ever in an RTC that you felt was unsafe?” A “There are no safe RTCs. All the RTCs are not -- not good at all. I can tell you about the Nelson Center. The Nelson Center, I stayed there for a very long time and I was young whenever I was there[...]I came into foster care because my parents were abusive physically and emotionally but I experienced new abuses at the Nelson Center. The Nelson Center was the first time I was ever sexually molested in the foster care system by one of my caregivers.” THE COURT: “How old were you then?” THE WITNESS: “I’m sorry?” THE COURT: “How old were you?” THE WITNESS: “Nelson Center, 12 or maybe 13, 14.” BY MS. LOWRY: Q “And you assaulted by -- not by name but by what category of person?” A “One of the staff, one of my caregivers but also by my peers, too. It was common, you know, in those type of settings for stuff like that to happen and it wasn’t -- certainly wasn’t

	<p>unique to the Nelson Center and it wasn't unique to me. I found out towards the end of my stay at the Nelson Center that there were other young boys who had also been raped by this caregiver." (12.04.14 Sharp Direct, 168:4- 8 and 168:20-169:13)</p>
<p>12.04.14 Sharp Direct, at 182:19-183:7</p>	<p>THE COURT: "So in hundreds of people that you've met that aged out, they had the same problems in foster care?" THE WITNESS: "I've met very few people who have had positive experiences in the system. A lot of the work that I do now is trying to get young people to be able to talk about what's happened to them in a way that is effective because it's -- we'll always be a foster child. We'll always be foster children. The things that we've experienced, we'll never be able to take them away. We've got to be able to talk about them in a way that can help us heal and I have to -- and I'm hearing people's stories and they're all the same. They're all about abuse. They're all about feeling abandoned. They're all about neglect and they're all about struggling once they leave the system." (12.04.14 Sharp Direct, 182:19-183:7)</p>
<p>12.03.14 Virgil Direct, at 203:20-204:3</p>	<p>THE COURT: "Did you know if these foster parents abused the other girls in the placement, too?" THE WITNESS: "In the first one, yes. Not in the second one, the second one was a female, single." THE COURT: "So the first one you know that he sexually abused other girls in the placement?" THE WITNESS: "Yes". THE COURT: "Did you see that or did you hear that?" THE WITNESS: "I saw it once." (Virgil Direct, 203:20-204:3)</p>
<p>12.03.14 Virgil Direct, at 202:19-25</p>	<p>THE COURT: "Would you consider your experience with being sexually abused at a very young age typical of foster care?" THE WITNESS: "Yes." THE COURT: "You know this from your own experience and others?" THE WITNESS: "Yes." (Virgil Direct, 202:19-25)</p>
<p>12.03.14 Bentley Direct, at 68:11-20</p>	<p>THE COURT: "Do you know about this -- did you witness this happening to other foster children?" THE WITNESS: "Oh, yes, I witnessed a lot of stuff happening to other foster children. A little while after I grew up a little bit more, I ended up in an RTC and I watched a lot of stuff happen to foster kids." THE COURT: "Like what?" THE WITNESS: "I mean, they were being abused, they were being overly medicated. I mean, that's a really bad problem, especially in RTC's." (12.03.14 Bentley Direct, 68:11-20)</p>

Item 8: CVS Caseworkers: (1) DFPS must track primary CVS caseworker caseloads on a child-only basis. The Special Master shall recommend whether tracking should be categorized separately for full-time and part-time primary CVS caseworkers, and how tracking should be categorized on a region and county-level. The State cannot include in the calculations secondary workers, workers in training, or fictive workers created out of overtime. The State is welcome to continue tracking caseloads by stages, but not in lieu of child-only tracking.

There is extensive evidentiary support in the record for the various reforms recommended by the Special Masters to address this Item in the Court’s Memorandum Opinion and Verdict including, but not limited to, the following:

Document	Citation
PX1871, Jane Burstain, “Center for Public Policy Priorities, A Better Understanding of Caseworker Turnover within Child Protective Services,” at DFPS002837605	“In its published reports, DFPS calculates turnover using the method required by the Legislative Budget Board (LBB), which calculates how many full time, regular employees left the agency either voluntarily or involuntarily. The LBB measure, however, is limited and does not allow for a full understanding of workforce issues and how they should be addressed...First, the LBB measure does not provide a comprehensive view of workforce stability...While recruiting, hiring and training new workers for the vacant positions, remaining workers must manage the cases of departing workers. This increases caseloads and reduces the time and energy spent on any individual child or family...Second, the LBB measure does not allow insight into the different types of turnover.” (Burstain, DFPS002837605)
PX2037, Viola P. Miller, “Overloaded Caseworkers, an Inadequate Placement Array, and Harm to Children in Texas,” at 10	“In a letter to Audrey Deckinga, Assistant Commissioner for Child Protective Services, on September 10, 2012, Colleen McCall, CPS Director of Field stated, ‘In order to impact caseloads significantly, CPS would need to have the current vacancies filled by caseworkers who are case assignable as well as having additional caseworker positions allocated and filled.’” (V. Miller, 10)
12.01.14 McCall Direct, at 31:21-32:2	Q “Now, one thing that—one consequence of high caseloads is that caseworkers work a lot of overtime don’t they?” A “They do.” Q “And you know that in the last few years overtime has been going up, up and up among your caseworkers, hasn’t it?” A “I haven’t tracked it lately to know if it’s—it stays at a high amount, especially for our investigators.” (McCall Direct, 31:21-32:2)
12.01.14 McCall Direct, at 40:14-20	THE COURT “So, what percentage of your caseworkers are out at a given time?” A “I think we’ve tried to get at that before and it’s very difficult because you could have somebody out for a week with the flu or you can have somebody out

	<p>on extended leave and our personal system doesn't quite capture it at that level of detail." (McCall Direct, 40:14-20)</p>
<p>12.01.14 McCall Redirect, at 68:8-16</p>	<p>Q "One of the groups you called was a CPU workers, true?" A "Yes." Q "And these are not primary conservatorship caseworkers, are they?" A "Correct." Q "They don't have the same responsibilities per case planning and service planning and permanency planning for their children, do they?" A "No." (McCall Redirect, 68:8-16)</p>
<p>12.11.14 Burstain Cross, at 65:1-67:19</p>	<p>Q "All right. You also testified about your calculation of a caseload based on children, didn't you?" A "Yes." Q "And you came up with a number of 17 or 19, right?" A "Yes." Q "And like all sorts of statistics, the devil's in the details, isn't it?" A "Uh—I don't know how to respond to that." Q "Meaning how you calculate makes a big difference on how the number comes out. True?" A "The number you put in makes a difference as to the number that comes out, yes." Q "And I don't think we have a big dispute about how many children are in the system, right? You know what that number is." A "Yes." Q "But let's talk about the number of people you counted as caseworkers, okay? Because we're—you were trying to come up with a child only caseload, right?" A "Yes." Q "Because the—Representative Dukes asked you to do that, right?" A "Yes." Q "And, so, you counted the primary conservatorship caseworkers in your number, didn't you?" A "Yes." Q "And you included every single caseworker even if they just had one child that they were keeping track of. Right?" A "Yes." Q "So, you could have included part-time caseworkers, new caseworkers. As long as they had one substitute stage that you counted as a child, they were counted as a full caseworker in your statistics. Right?" A "That's incorrect." Q "Well, how much did you count the caseworkers that only had one child?" A "So, if—they counted as one unless they were in training, in which case they counted as point five, or they were new, in which case they counted as zero." Q "Okay. So, if that caseworker was on a part-time basis, or whatever else, and only had one child on their caseload, you counted them as a full caseworker, right?" A "If they were out of training, yes." Q "And you also added in the centralized placement unit workers, didn't you?" A "Yes." Q "And those workers never interact with children, do they?" A "I don't believe so, no." Q "They sit in the office and do their paperwork in the office, don't they?" A "Yes." Q "And then you added in all of the ICU workers from all the regions. True?" A "Yes." Q "And they don't have the responsibilities of primary caseworkers, do they?" A "That's correct." Q "And then you added in conservatorship workers that were based on overtime hours." A "For the 17.7, that's correct." Q "I mean, these are not actually even people." A "That's correct." Q "So, you had some caseworkers that you created out of all the overtime that these other caseworkers with such big caseloads were having to put in." A "Yes." Q "And add all those caseworkers up and you ended up with a caseload of 17.7. Right?" A "Yes." (Burstain Cross, 65:1-67:19)</p>

Item 9: CVS Caseworkers: (2) DFPS must complete a Workload Study to determine the time required for caseworkers to adequately perform their tasks. DFPS will specify how long it takes to complete each task. The Special Master shall recommend how frequently DFPS must complete additional workload studies.

There is extensive evidentiary support in the record for the various reforms recommended by the Special Masters to address this Item in the Court’s Memorandum Opinion and Verdict including, but not limited to, the following:

Document	Citation
PX2037, Viola Miller, “Overloaded Caseworkers, an Inadequate Placement Array, and Harm to Children in Texas,” Report 2014, at 16	“The Sunset Advisory Commission Report completed in May 2014 found that ‘DFPS bases its target caseload . . . on a workload time study conducted in 2004,’ and that ‘[t]his study no longer reflects current workload.’” (Miller, 16)
PX2037, Viola Miller, “Overloaded Caseworkers, an Inadequate Placement Array, and Harm to Children in Texas,” Report 2014, at 21	“In my expert opinion, because workloads are extremely high, caseloads exceed the agencies’ analysis of the level at which work can be done, and case workers are spending only 26% of their time in direct service, all children in the General Class are at an unreasonable risk of being assigned to a caseworker whose caseload exceeds reasonable limits and results in harm or substantial risk of harm to the child.” (Miller, 21)
PX2037, Viola Miller, “Overloaded Caseworkers, an Inadequate Placement Array, and Harm to Children in	“Region 11 Program Administrator O’Connell testified that ‘if [you] have a more complicated child or a higher workload, that may play a role as to how . . . quickly they could review the studies, for example, for the families that are interested [in adoption].’ Georgina Martinez, Program Administrator for Region 10, testified that manageable workloads are important, allowing ‘caseworker[s] to assure that tasks are done effectively and efficiently’ and that manageability of workloads could impact the quality of casework.” (Miller, 22)

Texas,” Report 2014, at 22	
PX2114 Child Welfare League of America, “Standards of Excellence for Services for Abused or Neglected Children and their Families, § 5.9,” at PLTF0068218	“Workload standards developed for child protective services staff should be based on the tasks and activities expected within the child protection agency Workload standards should be established that make it possible for staff members to complete required tasks and activities. Once workload standards are established the agency should advocate aggressively for the resources needed to meet those standards.” (CWLA, PLTF0068218)
PX2114 Child Welfare League of America, “Standards of Excellence for Services for Abused or Neglected Children and their Families, § 5.9,” at PLTF0068219	“Workload Standards[:] In developing agency workload standards, the agency should consider: The specific assigned functions and the time required for each task e.g., intake assessment/investigation placement services, court activities, community development, provision of services); The competencies needed for each social work function (knowledge, skills, experience); The time required for travel and other necessary but noncasework tasks; Standards of sound practice; The availability of paraprofessionals and professionals from other services to help with routine activities (e.g., foster families, in-home aides); The intensity of services that the agency and community considers appropriate; The number of other agencies, individuals, or services involved with the family and the amount of time needed to communicate effectively with other community partners; The amount of time needed for community outreach or other activities not tied to a specific family; and [t]he amount of time allotted for activities such as staff meetings, training and development, administrative functions, and personal leave.” (CWLA, PLTF0068219)
PX2114 Child Welfare League of America, “Standards of Excellence for Services for Abused or Neglected Children and their Families, § 5.9,” at	“Caseload Standards [:] Every agency should conduct workload analysis to determine the appropriate workload standards for its child protective services staff. Until an agency conducts such an analysis the following caseload standards should be used: Initial assessments should involve no more than 12 active reports per month. Ongoing services to families opened for services and support after the assessment should involve no more than 17 active families assuming the rate of new families assigned is no more than one for every six open families. Combined initial assessments and ongoing services to families should be no more than ten active ongoing families and no more than four active initial assessments.” (CWLA, PLTF0068219- PLTF0068220)

PLTF0068219 - PLTF0068220	
12.04.14 V. Miller Direct, at 9:3-12:9	<p>Q “Are you familiar with what are called “workload studies”?” A “Yes.” Q “And why -- what are they in the child welfare field?” A “Well, they can be a variety of things. You can either look at what work is currently being done, okay. Measure that or you can look at what work should be done and frame a workload study around that model, that -- does that make sense?” Q “It does. So in your capacity as running a couple of these child welfare systems in two different states, which sort of workload study did you focus on studying just what you actually are doing or studying what it would take for you to do that job well?” A “You always have to study what it would take for you to do that job well and doing -- this was sort of indigenous to the agency because the work changes the -- over time. So we really did pretty much annual, what we called, ‘right-sizing studies’ to analyze the entire workforce and to help us make decisions about where we needed to move additional -- how we needed to structure our resource pool to best meet the needs of the clients that we were serving.” Q “In your investigation for this case, have you looked at whether Texas has ever done one of those workload studies for caseloads -- for conservatorship caseworkers in order to figure out what in an average week a caseworker would need to spend to do their job well?” A “They did a study in 2004 but I -- and the information that I have on that is rather cursory but what it looks as if they did was look at what was currently happening rather than an analysis, a further analysis of what needed to happen, came up with some data, then they reviewed that study but did not collect data. They simply added time based on additional responsibilities that the caseworkers had and that was done in 2010.” Q “As the top executive of a child welfare system, could you run your system and understand what caseloads are manageable for your conservatorship caseworkers without knowing what the--without that sort of results from a workload study?” A “It would be very difficult.” Q “In the Texas system that you’ve investigated, what do you believe would be the merit or not merit -- lack of merit for a workload study?” A “They clearly need a workload study.” Q “And what would they -- if they were properly managing the system, what would you do with that workload study?” A “You would then apply to your development of the resource allocation plan.” Q “If you wanted to know whether the workload that your caseworkers or conservatorship caseworkers had was manageable, could you know that without actually doing a study – a workload study like you’re talking about?” A “No, I don’t think so and I think you would also need a time study as well.” Q “Have you read any testimony from any of the DFPS or State executives that has given you any information one way or the other whether they actually know whether the workloads that their caseworkers are handling are manageable?” A “No, I have not.” Q “Have you seen information to the contrary from State agencies or the Sunset Commission or outside consultants with regard to whether these caseloads are too high and are not manageable?” A “Well, all of both the external and the internal studies have expressed serious concerns about the manageability of the DFPS workloads.” Q</p>

	<p>“Now, Dr. Miller, if you -- when you were running the system and you had outside consultants and your internal people telling you that the-- your conservatorship caseloads were too high and were not manageable, what would you do?” A “Well, you would do a workload analysis, a time study. We often use time studies as well as a part of a workload analysis except I might mention this is very sophisticated work and oftentimes DFPS agencies do not have the internal resources to conduct those kinds of studies and at least -- I didn’t use them every year but at least periodically I would use a consulting firm of specialists to actually take an external look at what that workload looked like.” Q “In your opinion in this situation with this system that Texas has, do you believe or not that Texas should do a reliable, consistent, professional workload study for its conservatorship workers?” A “Unquestionably--” (V. Miller Direct, 9:3-12:9)</p>
<p>PX926, Texas Department of Family and Protective Services “What Should CPS Caseloads Look Like July 2010,” at DFPS0002413 315</p>	<p>“There has not been another work measurement time study done since 2004.” (DFPS, DFPS0002413315)</p>
<p>DX119, Sunset Advisory Commission Staff Report with Commission Decisions, at DFPS0090069 39-40</p>	<p>“DFPS bases its target caseload and the corresponding caseworker performance requirements on a workload time study conducted in 2004. This study no longer reflects current workload, however, since the Legislature has significantly increased requirements by passing major reform legislation in 2005 and 2007, in addition to other bills. DFPS itself has added new policies and practices over time, likely contributing to higher workloads for caseworkers. The State Auditor’s Office identified this same issue through an audit published in 2009, which found CPS workload measures were outdated and recommended an updated time study. However, DFPS did not implement this recommendation and continues to use the 2004 information. Further, the measures themselves focus largely on casework output measures of timeliness that often bear only an indirect relationship to child safety and quality casework. The textbox, <i>Example of CPS Caseworker Performance Measures Related to Timeliness</i>, describes common performance measures to which management holds caseworkers accountable. With such a heavy focus on quantity, CPS cannot accurately gauge the quality of services provided to children and families.” (Sunset Advisory Commission, DFPS009006939-40)</p>
<p>12.01.14 McCall Cross, at 27:4-8</p>	<p>Q “Because you've not -- you, the State of Texas -- has not done a study, at least any time recently, of how many cases would be the right optimal caseload for your</p>

	conservatorship caseworkers to do their job properly, have you?" A "No, we haven't done that recently." (McCall Cross, 27:4-8)
12.01.14 McCall Cross, at 28:16-20	Q "And, in fact, what you told us in your deposition just in July is that the DFPS has done no study to determine how many cases a conservatorship caseworker can carry and complete all the required tests, true?" A "Correct." (McCall Cross, 28:16-20)
12.02.14 Black Cross, at 18:22-19:2	Q "Now, the next sentence is about something we heard from about yesterday. 'DFPS bases its target caseload and the corresponding caseworker performance requirements on a workload time study conducted in 2004.' Do you see that sentence, ma'am?" A "Yes." (Black Cross, 18:22-19:2)
12.02.14 Black Cross, at 19:14-20:15	Q "Now, Ms. Black, there has been -- to your knowledge there has been no work study done at CPS, no full work study done, in ten years, has there?" A "According to the information, yes." Q "And you never asked for one, have you? Or commissioned one." A "No, I have not commissioned one." Q "Now, let's go back to -- so here we are back in the text and I want to skip forward one -- well, the next sentence says, 'This study no longer reflects current workload because the legislature has significantly increased requirements through some legislation.' Do you see that?" A "Yes." Q "And the next sentence say, 'DFPS itself has added new policies and practices, likely contributing to higher workloads for caseworkers,' right?" A "Yes." Q "So what the Sunset Commission Report concludes is that the workloads from that study in 2004 are actually higher today, right? Because there's more paperwork." A "That is -- yes, that is what they're concluding." Q "Okay, so the next sentence talks about the State Auditor's office and it says that -- THE COURT: "Do you agree with that, the conclusions?" THE WITNESS: "I do agree that we over time have put in policies and practices and statutes that have added to our caseworkers' workloads" (Black Cross, 19:14-20:15)
12.02.14 Black Cross, at 21:4- 17	Q "So, Ms. Black, just to be clear, you're not doing a time study today in CPS, are you?" A "No, sir, not to day." Q "And you were asked just two months ago whether you're going to do a -- whether you were doing a time study in CPS today and you said you weren't, right?" A "I didn't personally say that but, no, we're not -- it hasn't started with CPS yet." Q "And it -- and to -- and this document from the Sunset Commission only four months ago said that DFPS -- that the State Auditor's office had suggested that you do an updated time study and DFPS did not implement this recommendation, true?" A "That's what it says, sir." (Black Cross, 21:4-17).
12.08.14 Cannata Cross, at 20:4-6	Q "Mr. Cannata, is there a date for a workload study for conservatorship case workers today?" A "I'm not aware of a specific date." (Cannata Cross, 20:4-6)

<p>PX844, Texas Department of Family and Protective Services, “Child Protective Services Salary Study,” at DFPS0054612 21</p>	<p>“The main reasons why [caseworkers] leave or intend to leave have remained consistent from year to year:...[including] workload concerns making it difficult to perform adequate work.” (DFPS, DFPS005461221, DFPS005461226)</p>
<p>PX844, Texas Department of Family and Protective Services, “Child Protective Services Salary Study,” at DFPS0054612 26</p>	<p>“Caseworkers have been clear that there are four main reasons why they leave or intend to leave:...[including] workload concerns making it difficult to perform adequate work.”(DFPS, DFPS005461226)</p>
<p>PX1964, Adoption Review Committee, “Report of the Adoption Review Committee,” at PLTF0019527</p>	<p>The Adoption Review Committee found that being overworked was the most popular reason for quitting DFPS – about 45% listed it as the reason for quitting. (Adoption Review Committee, PLTF0019527)</p>
<p>PX1993, The Stephen Group, “DFPS CPS Operational Review, Phase 1 Assessment/ Findings,” at PLTF0068307</p>	<p>“Caseload and workload are not synonymous and administrative and other burdens are making managing cases more challenging: Not all child protection cases are equal and CPS hands cases out based on caseload and not workload – they do not assess case difficulty in a structured or standard way. We found that workload can increase even as caseload stays the same. This reduces the ability of caseworkers to interact directly with families and instead turn their attention to non-value added activities. Moreover, there are numerous handoffs that take place throughout the process of bringing a case to resolution. These transactions, often in paper, add more</p>

	and more work, as well as delays, for the caseworker, with little beneficial outcome for the children and families involved.” (The Stephen Group, PLTF0068307)
PX1993, The Stephen Group, “DFPS CPS Operational Review, Phase 1 Assessment/ Findings,” at PLTF0068330	“[T]he time and demands on the workforce is increasing significantly. . . . The net result of these increasing workload demands is that workers spend less time talking to families and children and more time handling administrative tasks. A TSG survey verifies . . . that caseworkers only spend 26% of their time interacting directly with families. These clerical and compliance tasks are creating a barrier that is qualitatively reducing the CPS caseworkers’ ability to keep children safe.” (The Stephen Group, PLTF0068330)
PX1995, The Stephen Group “DFPS CPS Operational Review, Phase 1: Recommendations,” at PLTF0068773-74	“Among the most critical of the TSG’s findings in our operational review was only 26% of CPS field staff’s time is actually spent with children and families. That means that nearly three quarters of time frontline workers are on the clock is spent away from individuals they are charged to protect and help. Our top recommendation is to take steps to significantly improve that figure. Some of the time away is unavoidable. There is no way to work around the realities of travel and court time. However, the loss of time to data entry, document recovery, staffings and other administrative tasks not only means that families are poorly served, but also undermines morale, which results in higher turnover. The less time staff is spending working with the individuals involved with a case, the less connected they feel not only to those people, but toward the mission that brought them to CPS in the first place.” (The Stephen Group, PLTF0068773-74)
PX2115, Council on Accreditation, for Child Protective Services, “(FP) PA-CPS 14.05,” at Page 40	“A manageable workload which includes caseload and other organizational responsibilities: (a) makes it possible for workers to meet practice requirements; (b) does not impede the achievement of outcomes; and (c) takes into consideration the qualifications and competencies of the worker and case status and complexity.” (Council on Accreditation, (FP) PA-CPS 14.05, Page 40)
PX2115, Council on Accreditation, for Child Protective Services, “(FP) PA-CPS 14.05,” at Page 40	“Each agency should determine what caseload size is appropriate, and reviewers will evaluate: (1) whether the agency’s designated caseload size reflects a manageable workload and (2) whether the agency maintains caseloads of the size it deemed appropriate.” (Council on Accreditation, (FP) PA-CPS 14.05, Page 40)

<p>12.02.14 Black Direct, at 7:21-25</p>	<p>Q “Now, one of the things that makes that job – and one of the challenges to that job is high caseloads, isn’t it? A “I haven’t been made aware that the caseloads were too high. I believe that when you look at caseload, you have to also look at workload.” (Black Direct, 7:21-25)</p>
<p>12.02.14 Black Direct, at 8:5-12</p>	<p>Q “High workloads cause quality casework to suffer, doesn't -- don't they?” A “Yes.” Q “And when quality casework suffers, children in the system are at risk of harm; isn't that true?” A “That would depend on -- that would depend not necessarily [on] how workload. It could be other things that could cause children to be harmed.” (Black Direct, 8:5-12)</p>
<p>12.12.14 Specia Cross, at 56:10-13</p>	<p>Q “One of the primary reasons why conservatorship caseworkers quit is high caseloads and high workloads, true?” A “It is part of like the top three is what is stated on our exit surveys.” (Specia Cross, 56:10-13)</p>

Item 10: CVS Caseworkers: (3) The Special Master shall recommend the point at which caseloads are manageable for full-time and part-time CVS caseworkers, taking into account times of crises. What is manageable is to be understood as the level at which caseworkers are able to perform their basic functions and not compelled to quit at an unreasonable rate. In other words, a manageable caseload is the level at which children are free from an unreasonable risk of harm.

There is extensive evidentiary support in the record for the various reforms recommended by the Special Masters to address this Item in the Court’s Memorandum Opinion and Verdict including, but not limited to, the following:

Document	Quotes
<p>PX18, Child Welfare League of America, “Standards of Excellence for Family Foster Care Services § 3.48,” at PLTF0067882</p>	<p>“The caseload size for family foster care social workers should be between 12 and 15 children per worker, depending upon the level of service required to meet the assessed needs of the child.” (CWLA, PLTF0067882)</p>
<p>PX96, V.T.C.A., “Government Code § 531.001</p>	<p>“‘Caseload standards’ means the minimum and maximum number of cases that an employee can reasonably be expected to perform in a normal work month based on the number of cases handled by or the number of different job functions performed by the employee.” (V.T.C.A., 1)</p>

<p>§ 531.001. Definitions,” at 1</p>	
<p>PX96, V.T.C.A., “Government Code § 531.001 § 531.001. Definitions,” at 2</p>	<p>“‘Professional caseload standards’ means caseload standards that are established or are recommended for establishment for employees of health and human services agencies by management studies conducted for health and human services agencies or by an authority or association, including the Child Welfare League of America, the National Eligibility Workers Association, the National Association of Social Workers, and associations of state health and human services agencies.” (V.T.C.A., 2)</p>
<p>PX2037, Viola P. Miller, “Overloaded Caseworkers, An Inadequate Placement Array, and Harm to Children in Texas,” at 9-10</p>	<p>“The Council on Accreditation (‘COA’) recommends caseloads of 8 to 15 children depending on the severity of children and families’ needs. Texas state law defines ‘professional caseload standards’ to include caseloads standards established by the CWLA.” (V. Miller, 9-10)</p>
<p>PX2037, Viola P. Miller, “Overloaded Caseworkers, An Inadequate Placement Array, and Harm to Children in Texas,” at 18</p>	<p>“In my professional opinion, the singularly most troubling finding regarding caseloads was the total absence of a ‘ceiling,’ that point beyond which caseloads would not be considered manageable.” (V. Miller, 18)</p>
<p>PX2037, Viola P. Miller, “Overloaded Caseworkers, An Inadequate Placement Array, and</p>	<p>“The ceiling that I used was 20 children. The caseload range that I managed to was 14 to 17. Anytime a caseload reached 20, I wanted an explanation and a freeze on further assignments to that caseworker.” (V. Miller, 18)</p>

Harm to Children in Texas,” at 18	
PX2047, Rita L. Soronen, “Child-Focused Recruitment: Opportunities for Children in Foster Care in Texas,” at 2-3	“Key to success is the implementation of the child-focused recruitment model, components of which include: Maintain smaller caseloads: Recruiters develop a caseload of 15 – 20 children, typically age 9 or older. These caseloads are focused solely on recruitment and adoption activities; children continue to have agency caseworkers.” (Soromen, 2-3)
12.03.14 V. Miller Direct, at 44:18-45:12	Q “And can you tell us in the field of child welfare, the professional child welfare, what’s the caseload standard?” A “Well, there are two different groups that establish the standards. One is a professional organization and the other one is an accrediting organization. CWLA is simply a professional organization that has developed standards using experts who do this work all the time to come together to develop what they think is reasonable work. And they have said -- they have suggested these are not --” Q “Before we get -- before we get into the details, I just want you to explain what the concept is, caseload standards?” A “Oh, I’m sorry. I didn’t -- establishing, just like you would in -- with any other professional body of work, establishing standards around what is a reasonable amount of that work that one person could do, and do well.” Q “Now, is the concept -- based on your investigation, is the concept of caseload standards for child welfare professionals completely new to Texas? Or does Texas recognize--” A “No. They -- they -- their statutes recognize the CWLA professional standards.” (V. Miller Direct, 44:18-45:12)
12.03.14 V. Miller Direct, at 45:15-46:8	Q “So, do caseload standards, are they averages or are they minimums and maximums or what are they?” A “The standards usually are establishing either a range as with CWLA or a maximum.” Q “Okay. Now, why is the maximum important for child welfare professionals like conservatorship case workers?” A “What that does is establish a cap or a ceiling beyond which you don’t want to go and -- or you can’t go and assume that that worker is able to do the work that needs to be done within the parameters of whatever their job is, what that - how that job has been defined.” Q “For a caseload maximum in the child welfare profession, who is -- in your experience, who -- who’s protected or benefited by the maximum?” A “The children.” Q “And how does that protect them?” A “Because it provides them with a case worker who has the time available to do the work that needs to be done in safety, permanency, and wellbeing for those children.” (V. Miller Direct, 45:15-46:8)

12.03.14 V. Miller Direct, at 47:19-21	Q “And do you know whether or not Texas is -- recognizes the Child Welfare League of America?” A “They were members in 2010.” (V. Miller Direct, 47)
12.03.14 V. Miller Direct, at 50:19-52:5	Q “And the numbers that you were just giving us between eight and 17, is that children or is that some other sort of caseload?” A “The number I gave you was 14 to 17.” Q “Fourteen to 17.” A “That -- that’s children.” Q “And that’s children?” A “Yes.” Q “Now, when you were -- and was that -- what did you consider that range to be? Was it the maximum minimum? Was it the optimum? What -- how did you look at that?” A “My cap was 20. I wanted people to stay as much as possible -- you know, this -- this is a fluid thing. Kids are coming in. Kids are exiting the system, being assigned. So, I wanted a reasonable range where I thought that high quality work could be done. But I also wanted an absolute maximum that trigger red flags, when we thought okay, we’ve got to figure out what’s going here. You know, these -- if you don’t manage caseloads, they can get out of control on you very quickly and then the work really begins to suffer and the children for whom that work is being done begin to suffer. So, I not only used a range. I also used a cap.” Q “So, did -- did you or not -- how did you view that range of 14 to 17 in terms of child caseload as to whether it was good practice, best practice, reasonable -- how would you characterize it?” A “I thought it provided a reasonable workload where I was in a position to be able to hold those workers accountable for doing the work -- the quality work that needed to be done for our children. I didn’t feel like -- well, I know for a fact that they were not fat cats. They were still very busy. They had plenty of work to do in the course of their day. That’s the other thing about managing caseloads. I don’t know how you hold your case managers accountable for this extremely critical work that they’re doing unless you have and they have some sort of assurance that what it is you’re asking them to do is -- is somehow manageable.” (V. Miller Direct, 50:19-52:5)
12.03.14 V. Miller Direct, at 48:4-8	Q “The -- we heard -- did you hear testimony on Monday from Ms. McCall that it would be a waste of Texas resources to put a maximum caseload -- to put -- a caseload standards that have a maximum on conservatorship workers? Did you hear that?” A “Yes.” (V. Miller Direct, 48:4-8)
12.03.14 V. Miller Direct, at 52:8-53:20	Q “Did you believe or do you believe that a caseload maximum -- the ceiling that you talked about at 20 where you said it raised red flags in Tennessee, I think you said. Do you think that that’s a best practice sort of ceiling or a desirable ceiling?” A “Well, obviously, I think it’s a most desirable ceiling because it’s the one I used. But I came to that in a relatively pragmatic sort of way. I spent a -- when I first went to Tennessee, we had caseloads far in excess of that and our kids were staying far too long in custody and they were being moved too much. And we weren’t doing the kind of permanency planning that needed to be done. And as I began -- and I spent a great deal of time tracking child progress in relationship to -- you know, how is the child moving through the program in the way they should? And it became -- and in that work, I also looked at the workers’ caseloads. And it just became very

	<p>obvious to me if I could keep those caseloads below 20, that I could expect that -- to see that child making the kind of progress that I wanted the child to make. And if those caseloads shot above 20 then I wasn't going to see that kind of progress. I was going to see kids backing up in the system. Now, here's another reason why I did the 14 to 17. And, again, it's sort of a pragmatic reason. We had five workers per supervisor. If I -- if I was at 14 to 17 and I had one of those workers leave the system, resign, then I had no problem taking that case load and spreading it among the remaining workers so that none of those kids fell through the cracks. And those left workers still didn't go over the 20. Do you see what I'm saying? So, that was one of the reasons that I thought it was very important to manage caseloads to that level so that if we had a crisis or if we had somebody leave and, you know, there are crisis situations. You have a meth lab bust and you suddenly can get in a huge number of children. People who do drugs seem to have a lot of kids. And when that happened, we were able to distribute those kids quickly, be responsive to that crisis without throwing our workers into a range where they couldn't get the work done that needed to be done for their kids." (V. Miller Direct, 52:8-53:20)</p>
<p>PX1880, Casey Family Programs, "Assessment of Foster Care Lengths of Stay and Permanency Outcomes in Harris County, Texas: A Report to the DFPS," at DFPS0068259 55</p>	<p>"Case transitions and progress toward permanency are frequently stalled by poor internal communication and a 'siloed' organizational culture. This is seen not as [a] problem with the performance of individual caseworkers, supervisors or administrators; rather it is the result of systemic inefficiencies which must be addressed through system-wide action." (Casey Family Programs, DFPS006825955)</p>
<p>12.04.14 V. Miller Direct, at 38:11-18</p>	<p>Q "[Reducing turnover] Allow[s] supervisors to spend more time with the workers. Do you believe that would happen?" A "That's correct." Q "And how would that be a positive or effect on the system?" A "Well, your supervisors are your quality control folks. Front-line workers, they're the ones who monitor and give feedback to the workers on the quality of the work that's happening." (V. Miller Direct, 38:11-18)</p>
<p>12.08.14 Gilliam Direct, at 67:21-68:1</p>	<p>Q "With respect to caseloads and workloads in your regions, how do you manage caseloads and workloads?" A "I think that there are certainly a number of things that we do. Again, as Judy mentioned, supervisors and program directors play a really important role because they're the initial frontline staff." (Gilliam Direct, 67:21-68:1)</p>

<p>PX1993, The Stephen Group, “DFPS CPS Operational Review, Phase 1 Assessment/Findings,” at PLTF0068303</p>	<p>“Currently, CPS’ field staff only spends a quarter of its time directly with children and families. While some time away from actively meeting with those in the system is unavoidable (travel, court, etc.), this number is clear evidence that the agency is doing more compliance than care.” (The Stephen Group, PLTF0068303)</p>
<p>PX1993, The Stephen Group, “DFPS CPS Operational Review, Phase 1 Assessment/Findings,” at PLTF0068304</p>	<p>According to The Stephen Group, caseworkers spend their time in the following ways: “Talking with families or children, 26%,” “Working on a tablet or computer, 24%,” “Traveling, 21%,” “Meetings and other, 18%,” and “Working with paper, 11%.” (The Stephen Group, PLTF0068304)</p>
<p>PX1993, The Stephen Group, “DFPS CPS Operational Review, Phase 1 Assessment/Findings,” at PLTF0068304</p>	<p>“[A] huge amount of time and resources are dedicated to compliance over time spent focused on child well-being.” (The Stephen Group, PLTF0068304).</p>
<p>PX1993, The Stephen Group, “DFPS CPS Operational Review, Phase 1 Assessment/Findings,” at PLTF0068347</p>	<p>“While the role of the administrative assistants and Human Services Technicians may not be the most glamorous in the Department, they offload a tremendous amount of clerical work from the investigators and case workers. Recent cutbacks in these roles have had a significant impact on shifting this clerical work onto the investigators and case workers which puts extra strain on their ability to spend time with the families.” (The Stephen Group, PLTF0068347)</p>

<p>PX1871, Jane Burstain, “Center for Public Policy Priorities, A Better Understanding of Caseworker Turnover within Child Protective Services,” at DFPS002837614</p>	<p>“[W]hen caseloads are high, CVS workers may not be able to do real social work because they must spend all their time completing paperwork and complying with administrative requirements. Lower caseloads reduce the paperwork load and allow CVS workers to spend more time helping families and children. A study of New York caseworkers seems to confirm the paperwork/turnover connection as it found lower turnover in areas where workers spent more time on direct services and less time on paperwork.” (Burstain, DFPS002837614)</p>
<p>PX1871, Jane Burstain, “Center for Public Policy Priorities, A Better Understanding of Caseworker Turnover within Child Protective Services,” at DPS002837618</p>	<p>“[E]ven if the number of children in DFPS custody remained relatively flat, CVS caseloads are too high and above recommended standards. Caseloads need to be reduced to keep paperwork manageable, allowing CVS workers to focus on helping and providing services to children and their families.” (Burstain, DFPS002837618)</p>
<p>PX1995, The Stephen Group, “DFPS CPS Operational Review, Phase 1: Recommendations,” at PLTF0068773-4</p>	<p>“Among the most critical of the TSG’s findings in our operational review was only 26% of CPS field staff’s time is actually spent with children and families. That means that nearly three quarters of time frontline workers are on the clock is spent away from individuals they are charged to protect and help. Our top recommendation is to take steps to significantly improve that figure. Some of the time away is unavoidable. There is no way to work around the realities of travel and court time. However, the loss of time to data entry, document recovery, staffings and other administrative tasks not only means that families are poorly served, but also undermines morale, which results in higher turnover. The less time staff is spending working with the individuals involved with a case, the less connected they feel not only to those people, but toward the mission that brought them to CPS in the first place. Throughout our review, we saw how much field staff wanted to be more engaged with their cases. They feel that face-to-face time with these children and families is a critical component to improving quality outcomes.” (The Stephen Group, PLTF0068773-4)</p>

<p>12.08.14 Cannata Cross, at 32:20-33:19</p>	<p>Q “Okay. So you know that before foster care re-design the state of Texas had outsourced 90 percent of its child care to what are called CPA's, some 300 or so CPA's around the state, right?” A “That is correct.” Q “And so what foster care re-design -- but the state was still administering those 300 CPA's, right?” A “Correct.” Q “But what foster care re-design was all about is to outsource even the administration of those 300 CPA's to some super CPA's in different parts of the state. Boiled down that's what foster care re-design is all about, isn't it?” A “It is for -- correct, for a managing group to manage those homes or the CPA's.” Q “So they're not only going to outsource the child care, they're going to outsource watching over the child care, the people giving the child care, right?” A “It's a partnership.” Q “So the state is going to be even one further step removed from those children that the state is supposed to be protecting if foster care re-design goes through isn't it?” A “I don't agree with that.” Q “Whatever we personally believe, the Sunset Advisory Commission said that was a risky endeavor didn't they?” A “According to this document that is accurate.” (Cannata Cross, 32:20-33:19)</p>
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Item 11: CVS Caseworkers: (4) DFPS must hire and maintain enough primary CVS caseworkers to ensure that caseloads are manageable in each county in the State.

There is extensive evidentiary support in the record for the various reforms recommended by the Special Masters to address this Item in the Court’s Memorandum Opinion and Verdict including, but not limited to, the following:

Documents	Citations
<p>PX878, DFPS Legislative Appropriations Request, Volume I, for Fiscal Years 2012 and 2013, at DFPS008316670</p>	<p>“Due to forecasted caseload growth, DFPS will need additional staff to maintain the FY 11 average daily caseload for investigative, family based safety services substitute care workers.” (DFPS, DFPS008316670)</p>
<p>PX885, DFPS Legislative Appropriations Request for Fiscal Years 2014 and 2015, Volume I, at</p>	<p>“As the population continues to grow, the number of citizens who require the protective services of DFPS increases also. With the current number of funded FTEs, the largest impact of this caseload growth for the CPS program will be on the caseworkers who work with children who have been removed from their homes and are placed in the conservatorship of DFPS...DFPS will need more CPS and APS caseworkers to maintain the projected FY 13 average daily caseload per worker in FY 14-15. Without additional staff, caseloads would increase which results in significant child and adult safety issues.” (DFPS, DFPS005664771)</p>

DFPS0056647 71	
PX889, DFPS Description of Revised Exceptional Item Requests, FY 14-15 Biennium, at HHSC000028 819	“The 80 th Legislature funded CPS Reform Continued which included additional CPS conservatorship staff to meet the federal standard for caseworkers to have monthly face to face visits with 90% of children in care. By FY 09, CPS conservatorship caseloads were at their lowest at an average of 28.4. Since that time, there has been an 11% growth in the average monthly number of children in conservatorship, while the number of caseworker positions has remained constant. Additionally, the federal standard for face-to-face visits will increase to 95% for FY 15. This request is for more conservatorship caseworkers to bring the average daily caseload down to the FY 09 level. This will improve the ability of caseworkers to have meaningful face-to-face visits with children.” (DFPS, HHSC000028819)
PX1165, DFPS Advisory Council Meeting Materials, Apr. 20, 2012 , at DFPS0067617 68	Information is confidential, filed under seal, or otherwise covered by Amended Protective Order. (Docket Entry 138)
PX1966, Stephen M. Ryan, Texas Appleseed, “Texas Foster Care: Current Issues, Reform Efforts and Remaining Problems,” at PLTF0006533	“Because of the increase in children entering the system, the average daily caseloads of workers who place children in foster care grew from 40 in fiscal 2005 year to 45 in 2006. Generally accepted professional caseload standards issued by the Child Welfare League of America (“CWLA”) provide for between 12 and 15 children per worker for foster care services. In addition, caseworker [turnover] is high. Between September 2006 and February 2007, 28 percent of conservatorship caseworkers left their jobs. As of the end of the third quarter of 2007, DFPS reported that the annualized caseworker turnover rate was 31.2 percent. Obviously, this turnover greatly exacerbates the problem; when caseworkers leave, the remaining caseworkers have to take on their responsibilities, leading to more overwork and even more caseworkers deciding to leave.” (Texas Appleseed, PLTF0006533)
PX2015, William Lee Carter, “Common Types of Harm Identified in Psychological Evaluations of	Information is confidential, filed under seal, or otherwise covered by Amended Protective Order. (Docket Entry 138).

the Name Plaintiffs,” at 4	
PX2037, Viola P. Miller, “Overloaded Caseworkers, An Inadequate Placement Array, and Harm to Children in Texas,” at 21 n.86	Information is confidential, filed under seal, or otherwise covered by Amended Protective Order. (Docket Entry 138).
DX119, Sunset Staff Report, at DFPS009006938	“The agency has had difficulty reducing vacancy rates while filling newly allocated positions because each month DFPS hires over 200 new CPS caseworkers while losing over 100. This constant hiring and turnover cycle makes keeping up with turnover alone difficult, but hiring the additional 694 caseworkers at a pace sufficient to attain a fully staffed workforce is even more challenging. Even once DFPS hires caseworkers, one out of every six leaves within the first six months of employment — not long enough to help the agency reduce caseloads and provide relief for other caseworkers, since training alone lasts three months.” (Sunset, DFPS009006938)
12.03.14 Voelkel Direct, at 13:5-13	Q “Now, Ms. Voelkel, during the two years you worked in the Lubbock office, how large a caseload did you typically carry?” A “I would -- my best memory is between 30 and 50. Of course it would fluctuate. When a caseworker leaves, you would get cases and hold them -- I don't want to use the term "babysit," but you'll babysit a case until they can find a more stable, permanent caseworker for that. So when a -- when someone in the department leaves, their caseload has to be divided up. So you might have more at a certain time than you normally would.” (Voelkel Direct, 13:5-13)
12.04.14 V. Miller Direct, at 27:16-28:7	Q ““Even once DFPS hires caseworkers”” -- now, this is – this looks like it’s all DFPS caseworkers – ‘one out of every six leaves within the first six months of employment.’ Do you see that, Dr. Miller? So that would be 16 percent within six months, 16 percent of the new employee -- of the new caseworkers that they hire will leave within six months. ‘Not long enough to help the agency reduce caseloads and provide relief for other caseworkers since training alone lasts three months.’ What conclusion do you draw from that finding by the Sunset Advisory Commission?” A “Well, they are constantly training new workers and I think it was in this same report where they talk about the impact overall that supervisors end up training one-third to one fourth of their caseworkers constantly.” Q “And what impact does that have on the system as a whole?” A “Well, you’ve got -- it increases

	caseloads, for one thing. It costs the system a great deal of money.” (V. Miller Direct, 27:16-28:7)
12.05.14 Ricker Direct, at 201:2-13	Q “And have you been able to come to any conclusions about whether or not this work level has any impact on worker retention?” A “Oh, absolutely. Last week I was at a basketball game and this seasoned -- I thought she still worked for CPS -- worker came up and sat behind me with -- to watch the ballgame. And I asked her, hey, how's CPS going? I haven't seen you in a while. And she said she quit, it was just too much for her and she didn't have the support she needed. Frankly, I was kind of glad because she was pretty good on cross examination. I mean, she was a tough worker, she was a good worker for the department. She's a good woman.” (Ricker Direct, 201:2-13)
12.11.14 Burstain Cross, at 57:10-22	Q “Okay. So, what you said five, now almost six years ago, is: ‘Caseworker turnover also affects families with workers who have not left. While recruiting, hiring, and training new workers for their vacant positions, remaining workers must manage the cases of departing workers. This increases caseloads and reduces the time and energy spent on any individual child or family.’ You said that almost six years ago, didn’t you?” A “I did.” Q “It’s still true today, isn’t it?” A “That general proposition is still true today.” (Burstain Cross, 57:10-22)
PX878, DFPS Legislative Appropriations Request, Volume I, for Fiscal Years 2012 and 2013, at DFPS0083166 70	“If these items are not funded, the already high average daily caseloads per worker would grow. High caseloads cause quality casework to suffer, thus putting children in our system further at risk of harm.” (DFPS, DFPS008316670).
PX922, Review of Top 20 Caseworker Workloads, at DFPS0012774 47	In an internal DFPS survey, 74% of the respondents disagreed or somewhat disagreed that their caseload was consistently manageable. (DFPS, DFPS001277447).
PX1871, Jane Burstain, Center for Public Policy Priorities, “A Better	“When caseloads are high, CVS workers may not be able to do real social work because they must spend all their time completing paperwork and complying with administrative requirements. Lower caseloads reduce the paperwork load and allow CVS workers to spend more time helping families and children.” (Burstain, DFPS002837614).

<p>Understanding of Caseworker Turnover within Child Protective Services,” at DFPS0028376 14</p>	
<p>PX1988, Texas Appleseed, “Improving the Lives of Children in Long-Term Foster Care: The Role of Texas’ Courts & Legal System,” at GK0001031,</p>	<p>“The child’s own sense of ‘being thrown away,’ a history of poor foster care placements, a woefully underfunded foster care system, inadequate case management (compounded by high caseloads and turnover within Child Protective Services), frequent moves, and other administrative and resource shortage issues contribute to the already daunting challenges facing too many of Texas’ foster children.” (Texas Appleseed, GK0001031)</p>
<p>PX1988, Texas Appleseed, “Improving the Lives of Children in Long-Term Foster Care: The Role of Texas’ Courts & Legal System,” at GK0001120</p>	<p>“These averages do not reflect spikes in caseloads that can occur when a co-worker goes on extended leave or quits [need to maintain/prevent turnover]. One caseworker told Texas Appleseed that she had, at one time, a caseload of over 100 children. Almost every stakeholder in the foster care system interviewed for this study expressed the belief that CVS workers are overworked to the point of not being able to do their jobs properly. One child protection court judge made a point of telling new CVS workers that their job is akin to asking someone to ‘get on a congested interstate during rush hour and try to go the speed limit.’ Another said that caseworkers do well just to put out fires. Specific complaints about overworked caseworkers addressed every facet of their job. For example, several interviewees stated that CPS workers failed to file court reports on time (or at all) because they did not have the time to do so. Others told stories of swamped caseworkers causing delayed adoptions or terminations of parental rights. Caseworkers, foster parents, and children alike all said that caseworkers do not have enough time to do more than cursory monthly home visits. This lack of substantive contact, as a practical matter, limits the depth of any relationship and understanding caseworkers may develop with their foster children.” (Texas Appleseed, GK0001120)</p>
<p>PX1988, Texas Appleseed, “Improving the Lives of Children in</p>	<p>“One foster parent of seven years stated that caseworkers typically spent five minutes visiting each child in her home and the longest time a caseworker spent there was 30 minutes.” (Texas Appleseed, GK0001120 n.250)</p>

<p>Long-Term Foster Care: The Role of Texas' Courts & Legal System," at GK0001120 n. 250</p>	
<p>DX119, Sunset Staff Report, at DFPS0090069 39</p>	<p>"More than 55 percent of CPS caseworkers responding to Sunset's survey indicated they do not have adequate time during the workday to successfully do their job. More than half responded that they did not think the agency's expectations for their job performance are reasonable. DFPS bases its target caseload and the corresponding caseworker performance requirements on a workload time study conducted in 2004. This study no longer reflects current workloads, however." (Sunset, DFPS009006939)</p>
<p>12.02.14 Black Cross, at 8: 5-7</p>	<p>Q "High workloads cause quality casework to suffer, doesn't -- don't they?" A "Yes." (Black Cross, 8:5-7)</p>
<p>12.02.14 B. Miller Direct, at 34:1-36:3</p>	<p>Q "What caseload did you carry during your prior experience in the other office?" A "Forty to 60, sometimes higher." Q "Was the caseload that you carried typical of the caseload carried by your colleagues in the Conservatorship Unit?" A "For the most part. There were some that had less caseloads due to not being able to handle a high caseload." Q "Did your caseload include both TMC and PMC children?" A "Yes." Q "During your years in Abilene, did you find your caseload to be reasonably manageable?" A "No." Q "Why not?" A "It takes a lot of time. It's time consuming and it's --in order to be able to do the hands-on work and be involved there's just only so much time in a day and a week and a month to get everything done, between the documentation and the court paperwork and seeing the children, helping transport children, transporting parents, visits with the parents; there's just so much." Q "How many hours did you work in a typical workweek?" A "I would work about 50; sometimes more, sometimes less." THE COURT: "What was your caseload? I'm sorry." THE WITNESS: "My caseload there was between the 20's 25 and 30's." THE COURT: "Okay." BY MS. BARTOSZ: Q "And you've testified about 50 hours in the typical week?" A "Yes." Q "Did that include overtime?" A "Yes." Q "Was working overtime typical for you throughout a year period?" A "Absolutely." Q "Overtime was the rule, not the exception?" A "Yes." Q "What impact did the size of your caseload have on your ability, Ms. Miller, to keep up with your work as a conservatorship worker?" A "I spent most of the time doing triage on situations. Both the -- I'm a very hands on worker. I want to see my children. I have to be held accountable to the court and to those children. I can't sleep with myself at night if I didn't know my children were safe and saw them in person. Sometimes that would mean I'd have to find other routes to make up time, and that may have been documentation time and be late on monthly summaries." Q "I think you used the</p>

	word 'triage'?" A "Yes." Q "Did you have to make choices as to what job responsibilities to prioritize because of the size of the caseload you were carrying?" A "Yes." (B. Miller Direct, 34:1-36:3)
12.02.14 Solis Direct, at 7:21-8:4	Q "Now, in order for you to do your work as an attorney for a child, is it important that you have access to communicate to the child's primary caseworker?" A "Yes, it is." Q "In your experience, are DFPS caseworkers assigned to your child clients consistently accessible to you?" A "I have their phone number. That doesn't mean that they're accessible. I often have to leave messages over a week before I get responses." (Solis Direct, 7:21-8:4)
12.02.14 Solis Direct, at 8:18-25	Q "What impact does it have on your work for the children you represent when you have trouble getting in touch with the caseworker?" A "Well, things don't get followed up on, you know; children don't receive services that they should be receiving; parents don't receive services they should be receiving, you know; perhaps a relative that was available now becomes difficult to find; things can happen in that period of time." (Solis Direct, 8:18-25)
12.05.14 Ricker Direct, at 200:2-10	Q "And how many of your cases roughly would you estimate you have that kind of experience of having to persist repeatedly until you can get in touch with a worker?" A "It is a pervasive problem. They're just so busy. They just flat-out don't have the time to get back to me." Q "And do you ever have any discussions with the workers about why they don't get back to you?" A "Sure. They're nice people, they're good people. They just don't have enough hours in their day." (Ricker Direct, 200:2-10).
12.05.14 Ricker Direct, at 224:15-225:7	Q "And have you had a conversation with a caseworker at CPS recently about trying to find an adoptive home for another child, not a named plaintiff in this lawsuit, another child on your caseload?" A (No audible response) Q "And what was that?" A "Well, I just wanted an update, what's going on, because we need to know what's going on. Have you found anybody yet? And she just said she was too busy." Q "She said she was too busy?" A "Right." Q "To work on the adoption?" A "To find an adoptive placement." Q "Why did you decide to become --" A "She's a good worker." Q "Oh, sorry." A "I'm sorry, I want to tell you that. She's a good woman. She just doesn't have enough time." (Ricker Direct, 224:15-225:7).
12.08.14 Vasquez Direct, at 194:2-9 and 194:15-195:3	Q "Now in the course of your work as court appointed counsel for children do you have occasion to observe or consider the placements that are provided to your clients by DFPS?" A "Yes." Q "And why do you do that?" A "To look and observe the placements. Sometimes the caseworkers do not have time to go look at the placements...If they're not able to, the Court directly allows us as the ad litem to go and do that home assessment because the department does not do the assessments in a timely manner. I also go out sometimes if there's reports the children that call in to my -- on my cell phone, they call me concerned about their placement. Specifically, I remember an incident where this child was complaining about her placement at Sunny Glenn and so I went out there to talk to the director

	and to talk to her case manager, to meet me out there because there were serious concerns with regards to her placement. The caseworker didn't show up but I still went and I talked to the director and we had to request a special hearing to address the placement of that particular child.” (Vasquez Direct, 194:2-9, 194:15-195:3)
12.09.14 Martin Cross, at 15:18-25	Q “I want to see if you agree with this, if you'll confirm for the Court: ‘A lower caseload includes the quality of casework leading to better client safety and wellbeing. It also reduces caseworker turnover.’ True?” A “Yes, that's what's written there.” Q “No, do you agree with those statements?” A “Oh, yes.” (Martin Cross, 15:18-25)

<p>Item 12: CVS Caseworkers: (5) DFPS must significantly lower its primary CVS caseworker turnover rate.</p> <p>There is extensive evidentiary support in the record for the various reforms recommended by the Special Masters to address this Item in the Court’s Memorandum Opinion and Verdict including, but not limited to, the following:</p>	
Documents	Citations
PX877, DFPS Legislative Appropriations Request – Volume II for Fiscal Years 2012 and 2013, at DFPS008186859, DFPS008186864,	“High caseloads lead to high worker turnover, further exacerbating high caseloads.” (DFPS, DFPS008186864)
PX877, DFPS Legislative Appropriations Request – Volume II for Fiscal Years 2012 and 2013, at	“Entry level direct delivery positions experience the highest rate of turnover within the agency. Protective services is a stressful job, made even more so when caseloads are high. About 30 percent of new caseworkers in the APS and CPS programs leave within the first year.” (DFPS, DFPS008186877)

DFPS008186 877	
PX1871, Jane Burstain, Center for Public Policy Priorities, “A Better Understandin g of Caseworker Turnover within Child Protective Services,” at DFPS002837 617	“As the recent NGA issue brief acknowledges, lower caseloads help workers have more time to interact with and provide services to children and families. As a result, caseworkers feel more fulfilled in their job which leads to greater professional and organizational commitment. The Texas legislature acknowledges that reducing caseloads is important but past legislative sessions focused on investigations. Improving investigative outcomes, however, is only the first step. To ensure that the gains made through improved investigations persist as a case progresses through FBSS or CVS, caseloads in these areas must also be reduced.” (Burstain, DFPS002837617)
PX1871, Jane Burstain, Center for Public Policy Priorities, “A Better Understandin g of Caseworker Turnover within Child Protective Services,” at DFPS002837 618	“As part of the reform efforts in 2005, the legislature required DFPS ‘hire ahead’ or to start its recruiting process in anticipation of a vacancy rather than waiting until the worker actually leaves. For example, if it is likely that a caseworker will be promoted to supervisor, DFPS should recruit for that position before the promotion so that when the caseworker actually leaves, a new caseworker immediately steps into the position. It is like keeping a lake full at all times-- there needs to be an extra store of water that can instantly add to the lake when the water level is low. But such a strategy can only work if the lake is reasonably full. In other words, when vacancy rates are very high, the agency is left constantly filling vacant positions and cannot effectively hire ahead...To truly hire ahead, however, DFPS would need to start the recruiting process several months before a position becomes vacant because caseworkers do not carry any cases until after completing the 3 month initial training program and thereafter do not immediately carry a full caseload. As a result, such a program would require additional appropriations as CPS would pay the salary of both the old worker and the new worker for some period of time.” (Burstain, DFPS002837618)
PX1871, Jane Burstain, Center for Public Policy Priorities, “A Better Understandin	“Based on historical trends, this reduction in caseloads should help to further reduce CVS turnover. With smaller caseloads and lower turnover, CVS workers can spend more time finding permanent homes for the children in DFPS care.” (Burstain, DFPS002837618)

<p>g of Caseworker Turnover within Child Protective Services,” at DFPS002837618</p>	
<p>PX1964, Adoption Review Committee, “Report of the Adoption Review Committee,” at PLTF0019506,</p>	<p>“CPS caseworkers carry extremely high caseloads, often twice what is deemed best practice. This contributes to high turnover rates and reduces positive outcomes for children.” (Adoption Review Committee, PLTF0019506)</p>
<p>PX1964, Adoption Review Committee, “Report of the Adoption Review Committee,” at PLTF0019507</p>	<p>“Recommendations: Reduce CPS caseloads and establish an innovative management system to measure and improve outcomes.” (Adoption Review Committee, PLTF0019507)</p>
<p>PX1964, Adoption Review Committee, “Report of the Adoption Review Committee,” at PLTF0019510</p>	<p>“Caseworker burnout/turnover impedes getting to permanency. Recommendation: Reduce caseload to 15-17/worker in compliance with national standard.” (Adoption Review Committee, PLTF0019510)</p>

<p>PX2037, Viola P. Miller, “Overloaded Caseworkers, an Inadequate Placement Array, and Harm to Children in Texas,” at 7</p>	<p>“An overburdened workforce results in...caseworker turnover.” (Miller, 7)</p>
<p>PX2037, Viola P. Miller, “Overloaded Caseworkers, an Inadequate Placement Array, and Harm to Children in Texas,” at 9</p>	<p>“High caseloads also contribute to caseworker turnover, which reduces the ‘continuity and quality of service delivery to clients.’” (Miller, 9)</p>
<p>PX2037, Viola P. Miller, “Overloaded Caseworkers, an Inadequate Placement Array, and Harm to Children in Texas,” at 12</p>	<p>“The extremely high staff turnover significantly exacerbates DFPS caseload challenges and contributes to workloads that are unmanageable. Regions 4/5 Program Administrator Robinson testified that in some units under her supervision, turnover makes it harder to manage caseloads and results in higher caseloads for the remaining workers.” (Miller, 12)</p>
<p>PX2047, Rita L. Soronen, “Child-Focused Recruitment:</p>	<p>“Key to success is the implementation of the child-focused recruitment model, components of which include: Maintain smaller caseloads: Recruiters develop a caseload of 15-20 children, typically age 9 or older. These caseloads are focused solely on recruitment and adoption activities; children continue to have agency caseworkers.” (Soronon, 2-3)</p>

<p>Opportunities for Children in Foster Care in Texas,” at 2-3</p>	
<p>DX119, Sunset Staff Report, at DFPS009006918</p>	<p>“Child Protective Services (CPS) caseworkers contend with high workloads, low pay, and incredibly stressful, challenging working conditions. Understandably, the workers who face the demands of this job often leave the agency citing the inherently stressful nature of the job and the pay-- an issue facing many child welfare agencies across the nation.” (Sunset Staff, DFPS009006918)</p>
<p>DX119, Sunset Staff Report, at DFPS009006937</p>	<p>“During fiscal year 2013, one out of every eleven CPS caseworker positions was vacant. As illustrated by the table, CPS Investigations Turnover, Caseload, and Vacancy Data by Region, higher vacancy rates are related to higher caseloads and higher turnover, creating a vicious cycle. Further, because new caseworkers must go through three months of training before taking on a caseload, turnover can have long-term effects on vacancy rates, and, in turn, caseloads.” (Sunset Staff, DFPS0090069367)</p>
<p>12.02.14 Black Direct, at 36:9-15</p>	<p>Q “So there is a cycle where high caseloads lead to turnover which leads to higher caseloads. You understand that don't you, Ms. Black?” A “Yes.” Q “That cycle is a terrible cycle for the people that are supposed to be protected, the children, isn't it?” A “Yes.” (Black Direct, 36:9-15)</p>
<p>12.02.14 B.Miller Recross, at 38:3-6</p>	<p>Q “What impact did the caseload that you were carrying typically have on you?” A “Extreme stress, burnout, wearing down, anxiety. It started coming between myself and my family and my children.” (B. Miller Recross, 38:3-6)</p>
<p>12.02.14 B.Miller Recross, at 58:21-59:12</p>	<p>Q “You testified, Ms. Miller, that you after much thought chose to end your employment with DFPS due to the size of your caseload, yes?” A “Yes. The anxiety and the stress was just too much to continue.” Q “And at the time you left your caseload in Abilene, it was just too large for you to carry on, I guess?” A “Yes.” Q “If you had a manageable caseload, you indicated you loved the work. You would have stayed on board?” A “Absolutely.” Q “And you’ve been checking the employment sites to see what’s going on?” A “Yep.” Q “Fair to say you’re still waiting for those caseloads to come down to manageable sizes?” A “Yes” (B. Miller Recross, 58:21-59:12)</p>
<p>12.03.14 Voelkel</p>	<p>Q “When did you leave your employment with DFPS?” A “March, 2013.” Q “And why did you make that decision?” A “I was very overwhelmed and stressed out. I felt like I was just never going to catch up. I needed to be with my family. I needed a</p>

Direct, at 30:12-25	break. I didn't feel like I was going to be able to have a break. I didn't feel like I had a choice. I didn't feel like -- I was just treading water, I was drowning, there wasn't ever an end to anything, there was no -- I just had -- I felt like I had to. It was the hardest decision I think I've ever made, and I miss my foster youth greatly. I miss my job. It wasn't a horrible job. It was just--" Q "Thank you." A – "bad circumstances" (Voelkel Direct, 30:12-25)
12.08.14 Bowman Cross, at 21:11-13	Q "An overloaded case worker is bad for the case worker, too, isn't it?" A "Yes." (Bowman Cross, 21:11-13)
12.11.14 Burstain Cross, at 41:19-42:11	Q "Things like high case loads will contribute to high turnover, will cause it." A "At some--" Q "You've heard that over and over again, haven't you?" A "I don't disagree with that general principle." (Burstain Cross, 41:23-42:2)
12.12.14 Specia Cross, at 56:10-13	Q "One of the primary reasons why conservatorship caseworkers quit is high caseloads and high workloads, true?" A "It is part of like the top three is what is stated on our exit surveys." (Specia Cross, 56:10-13)
PX1871 Jane Burstain, Center for Public Policy Priorities, "A Better Understanding of Caseworker Turnover within Child Protective Services," at DFPS002837616	"DFPS should invest in investigators' professional development. For example, DFPS could encourage and support investigators' pursuit of additional education." (Burstain, DFPS002837616)
PX1871 Jane Burstain, Center for Public Policy Priorities, "A Better Understanding	"Currently, some supervisors are being included in some aspects of the Casey leadership program in some regions. DFPS should look for ways to expand supervisors' participation as a supplement to its other training since the leadership program has shown significant promise in improving morale, communication, and leadership, all of which are essential elements in reducing turnover." (Burstain, DFPS002837616)

<p>g of Caseworker Turnover within Child Protective Services,” at DFPS002837 616</p>	
<p>PX1880, Casey Family Programs, “Assessment of Foster Care Lengths of Stay and Permanency Outcomes in Harris County, Texas: A Report to the DFPS,” at DFPS006825 957- DFPS006825 958</p>	<p>“Recommendation: Expand the new supervisor training program to Harris County as part of a broader supervisor development initiative...The training should be provided to Harris County CVS supervisors as soon as possible as part of a broader supervisor development effort to include periodic specialized training, follow-up coaching, and peer learning opportunities such as supervisor circles.” (Casey Family Programs, DFPS006825957- DFPS006825958)</p>
<p>PX1993, The Stephen Group, “DFPS CPS Operational Review, Phase 1: Assessment/ Findings,” at PLTF006830 6</p>	<p>“Employees are working under stress and in fear in order to avoid penalties or termination-- Many supervisors focus on tracking numbers and metrics rather than creating a supportive environment. Accordingly, workers are fearful of making mistakes-- mistakes that could end up getting them fired. This causes a paralysis for field workers, shifts more decisions up to supervisors as caseworkers protect themselves, and adds stress to an already stressful job which further drives turnover.” (The Stephen Group, PLTF0068306)</p>
<p>PX1993, The Stephen Group, “DFPS CPS</p>	<p>“[The lack of empowerment of caseworkers due to having to report to supervisors] sometimes builds a level of frustration among field workers that adds greater stress and causes some to leave CPS.” (The Stephen Group, PLTF0068308)</p>

Operational Review, Phase 1: Assessment/ Findings,” at PLTF0068308	
PX1993, The Stephen Group, “DFPS CPS Operational Review, Phase 1: Assessment/ Findings,” at PLTF0068310	"In large part because of administrative, compliance and technology burdens, many CPS workers get frustrated and burned out, causing them to leave the agency." (The Stephen Group, PLTF0068310)
PX1993, The Stephen Group, “DFPS CPS Operational Review, Phase 1: Assessment/ Findings,” at PLTF0068312	“Supervisors are driven to use metrics as a mechanism to make sure caseworkers ‘meet their numbers,’ not as a tool to balance workload, identify workers in need of training or recognize structural issues that should be resolved. This creates a culture of fear where caseworkers are focused more on meeting numbers and checking off boxes than on the quality of service for the children in families under their care. Not surprisingly, many field workers do not feel supported by their supervisors, instead feeling that there is an effort to use metrics to discipline or fire them. This adds to the stress in the workplace and ultimately reduces productivity and increases turnover.” (The Stephen Group, PLTF0068312)
PX1993, The Stephen Group, “DFPS CPS Operational Review, Phase 1: Assessment/ Findings,” at PLTF0068411	“The amount of turnover has caused recent supervisors to be so new that they may not have the personal knowledge base and experience.” (The Stephen Group, PLTF0068411)

<p>PX1993, The Stephen Group, “DFPS CPS Operational Review, Phase 1: Assessment/ Findings,” at PLTF0068581</p>	<p>“Research has demonstrated a direct correlation between ineffective supervision and critical employee measures such as staff turnover, morale, performance, and agency outcome for children.” (The Stephen Group, PLTF0068580-PLTF0068581)</p>
<p>PX1993, The Stephen Group, “DFPS CPS Operational Review, Phase 1: Assessment/ Findings,” at PLTF0068581</p>	<p>“A recent think tank symposium sponsored by the Social Work Policy Institute in conjunction with the National Child Welfare Workforce Institute confirmed that effective supervision is a critical ingredient in addressing CPS staff retention, organizational culture, and child and family outcomes.” (The Stephen Group, PLTF0068581)</p>
<p>PX1995, The Stephen Group, “DFPS CPS Operational Review, Phase 1: Recommendations,” at PLTF0068803, PLTF0069052</p>	<p>“In the future, CPS will lower the current turnover rate, particularly for investigators, through improving the work environment and creating a feeling of teamwork and support from supervisors and management from a person’s first day on the job...CPS will change the dialogue between the supervisor and the caseworker by much better tracking of the details around the tasks the agency asks each person to do. With the support of supervisor training and metrics focused on the quality (not just quantity) of work, the environment will become much more desirable and allow more caseworkers to be proud of working for CPS.” (The Stephen Group, PLTF0068803)</p>
<p>DX119, Sunset Staff Report, at DFPS009006939</p>	<p>“When asked what DFPS could do to improve retention, caseworkers commonly emphasized greater support from management and agency leadership, better training for supervisors and caseworkers, a less punitive work environment, lower caseloads, and higher pay.” (Sunset Staff, DFPS009006939)</p>

<p>12.04.14 V.Miller Direct, at 22:11-23:16</p>	<p>Q “Now, let’s move to another issue that’s related to caseloads and that is turnover. Is that an issue related to high caseloads?” A “Yes, it is.” Q “You mentioned yesterday something about this all being interrelated, that case -- high caseloads and placement array, they’re all interrelated. Tell us how high caseloads and high turnover are interrelated.” A “Well, it creates this cycle of crisis. You have – you already have high caseloads. Somebody leaves. Those cases have to be -- and there is an email that I referenced in my paper that was very concerning where folks were talking about because the caseloads were high, oftentimes that transition time between children being reassigned was quite lengthy. Well, now that’s kids falling between the cracks and you’ve got to really be careful about that kind of thing. But anyway, you have to reassign if somebody leaves. That -- the kids don’t leave. You have to reassign them which then increases the other caseworkers who already have high caseloads which further exacerbates your turnover rate. And this has been very thoroughly explored and reported to the department in the auditor’s report and in the Stephens report. The other factor in that circle of crisis is that overtime. Overtime in public child welfare scares me to death. These jobs are just too stressful for workers to be working massive amounts of overtime. And then -- so they’ve already got high caseloads. They’ve taken on other kids because of turnover. They’re working additional overtime which adds additional stress to that worker and further exacerbates that cycle of folks leaving.” (V. Miller Direct, 22:11-23:16)</p>
<p>12.10.14 Wilson Cross, at 40:3-19</p>	<p>Q “And you know that when you ask the caseworkers, they believe that the culture in the department is unsupported and punitive. You know that, don't you?” A “I read that in a report and I'm not sure which report it was.” Q “It was the Sunset Commission report that came out in August, four months ago, August 2014. You also read that when you ask the caseworkers about the department, they say they don't feel valued, true?” A “I do remember reading that.” Q “And with regard to the department's appearance, management style of raise your hand if you're overloaded, you've also read that when you ask the caseworkers, they tell us that they do not feel safe to raise concerns or make complaints because they fear retaliation or punishment. You heard that, too, didn't you?” A “I recall it being raised in testimony.” (Wilson Cross, 40:3-19)</p>
<p>PX1993, The Stephen Group, “DFPS CPS Operational Review, Phase 1: Assessment/ Findings,” at PLTF006858 2-3</p>	<p>Mention of Secondary trauma as “required skill development” for supervisors (The Stephen Group, PLTF0068582-3)</p>

<p>PX1964, Adoption Review Committee, “Report of the Adoption Review Committee,” at PLTF0019509</p>	<p>“TDFPS Staff recruitment, training, and mentoring must be a priority to retain better quality staff, prevent burn-out, and achieve better outcomes for children.” (Adoption Review Committee, PLTF0019509)</p>
<p>PX1964, Adoption Review Committee, “Report of the Adoption Review Committee,” at PLTF0019510</p>	<p>“Caseworker burnout/turnover impedes getting to permanency: Evaluate recruitment, training, mentoring and supervision of caseworkers to improve staff retention, productivity, professionalism, and satisfaction.” (Adoption Review Committee, PLTF0019510)</p>
<p>PX1964, Adoption Review Committee, “Report of the Adoption Review Committee,” at PLTF0019510</p>	<p>“Caseworker burnout/turnover impedes getting to permanency: Evaluate recruitment, training, mentoring and supervision of caseworkers to improve staff retention, productivity, professionalism, and satisfaction.” (Adoption Review Committee, PLTF0019510)</p>
<p>PX1995, The Stephen Group, “DFPS CPS Operational Review, Phase 1: Recommendations,” at</p>	<p>“CPS will deal more effectively with the large numbers of inexperienced workers by creating effective mentoring programs and pairing experienced and newer caseworkers together. CPS will reward the experienced personnel for mentoring newer caseworkers in a number of creative ways that make this an activity they want to do rather than an unwelcomed extra burden.” (The Stephen Group, PLTF0068803)</p>

PLTF006880 3	
PX1995, The Stephen Group, "DFPS CPS Operational Review, Phase 1: Recommendations," at PLTF006885-7	"Recommendation 10": "Ease new employees into the job through mentoring." (The Stephen Group, PLTF0068805)
DX119, Sunset Staff Report, at DFPS009006919	"Key Recommendations: Direct DFPS to dedicate certain existing caseworker positions to create a mentoring program to better support new CPS caseworkers." (DFPS009006919)
PX1880, Casey Family Programs, "Assessment of Foster Care Lengths of Stay and Permanency Outcomes in Harris County, Texas: A Report to the DFPS," at DFPS006825968	"CPS should revise its system for evaluating caseworker performance by better measuring casework quality and ensuring performance expectations are reasonable" (DFPS, DFPS006825968)
DX119, Sunset Staff Report, at DFPS009006938	"DFPS' own internal management reviews highlight the degree to which the agency struggles to support its caseworkers. These reports reveal consistent themes of CPS' management practices that workers commonly describe as unfair, unsupportive, bullying, unreasonable, and fear-driven. Many caseworkers and managers even

	reported concern about retaliation for cooperating with these reviews.” (Sunset Staff, DFPS009006938).
DX119, Sunset Staff Report, at DFPS009006942	“The agency also lacks a formal system for making anonymous complaints, which is important within the current management structure of CPS because of the persistent fear of retaliation among caseworkers and supervisors.” (Sunset Staff, DFPS009006942)
PX1880, Casey Family Programs, “Assessment of Foster Care Lengths of Stay and Permanency Outcomes in Harris County, Texas: A Report to the DFPS,” at DFPS006825956-DFPS006825957	“Various jurisdictions have implemented steps to reduce turnover, including careful evaluation of job candidates’ critical thinking and writing skills; realistic job previews to assure that prospective caseworkers understand the job they’re applying for; ‘stay’ interviews to assess and address job satisfaction issues at 60 days and 90 days after hiring; and career ladder approaches tying advancement to continuing education and satisfactory completion of ongoing training.” (Casey Family Programs, DFPS006825956- DFPS006825957)
PX844, Child Protective Services Salary Study, at DFPS005461240-2	“The report makes the following recommendations: use ‘locality pay’ to pay caseworkers by region or area of the state; provide pay increases to entry level staff with degrees for which DFPS is statutorily required to recruit; approve and fund the DFPSLAR exceptional item to modify the certification program; provide an ongoing routine and predictable merit program for direct delivery staff in all programs; provide High Risk Compensation for DFPS caseworker staff that work in certain job titles; and allow DFPS to pay compensation for on-call time.” (DFPS, DFPS005461218)
PX844, Child Protective Services Salary Study, at	“For Recruitment: Use ‘locality pay’ to pay caseworkers by region or area of the state and add an additional percentage to their base salary.” (DFPS, DFPS005461240-2)

DFPS005461 218	
PX1871 Jane Burstain, Center for Public Policy Priorities, "A Better Understanding of Caseworker Turnover within Child Protective Services," at DFPS002837615	"Recommendation 1: Establish Relative Pay Parity among Investigations, FBSS, and CVS": "As discussed above, the pay disparity with investigations may be a factor contributing to turnover. Although pay parity is not a legislative mandate, DFPS must ensure that caseworkers and supervisors not in investigations 'are paid appropriately to increase employee retention.' One way to do so is to create a stipend for FBSS and CVS caseworkers and supervisors that would make their overall compensation comparable to investigations." (Burstain, DFPS002837615)
PX1871 Jane Burstain, Center for Public Policy Priorities, "A Better Understanding of Caseworker Turnover within Child Protective Services," at DFPS002837617	"Increase CPS Salaries-- The first priority with respect to salaries should be to achieve the pay parity discussed in Recommendation 1. But to the extent possible, overall salaries should be increased as well so that all caseworkers feel that CPS appropriately values their work." (Burstain, DFPS002837617)
PX1993, The Stephen Group, "DFPS CPS Operational Review, Phase 1: Assessment/ Findings," at PTF0068361	"The survey results also showed only 3% of the current workforce felt they were adequately paid in relationship to the stress and demand of the job. Of the respondents, 75% reported they were dissatisfied or very dissatisfied with their current salary." (The Stephen Group, PTF0068361)

<p>PX1871, Jane Burstain, Center for Public Policy Priorities, “A Better Understandin g of Caseworker Turnover within Child Protective Services,” at DFPS002837 604</p>	<p>“As every parent knows, children need stability and consistency. For children involved in the child welfare system, who often come from and continue to live in chaotic circumstances, a caseworker may be their only continuous and stable relationship. High caseworker turnover, however, disrupts continuity and stability. To address this problem, this policy paper analyzes turnover data on Texas' child protective services (CPS) caseworkers and makes recommendations about how turnover can be reduced.” (Burstain, DFPS002837604)</p>
<p>PX1871, Jane Burstain, Center for Public Policy Priorities, “A Better Understandin g of Caseworker Turnover within Child Protective Services,” at DFPS002837 616</p>	<p>“Even with better recruitment, investigations may have a higher rate of burnout due to the stress inherent in the position. The higher burnout potential in investigations should be addressed in workers' initial training with education about different possible career paths at CPS after investigations. Supervisors should also identify workers burning out with investigations but who still may be suited to other CPS work and counsel them about opportunities in other CPS units.” (Burstain, DFPS002837616)</p>
<p>PX1880, Casey Family Programs, “Assessment of Foster Care Lengths of Stay and Permanency Outcomes in Harris</p>	<p>“According to child welfare expert Jess McDonald, who headed Illinois' child welfare system from 1994-2003, ‘[t]he single most important improvement any system can make is to ensure it has a well-trained workforce with workloads that meet national standards...[W]ithout a solid and professional workforce the child protection system will never improve. That is an absolute, rock-solid guarantee.’” (Casey Family Programs, DFPS006825968)</p>

<p>County, Texas: A Report to the DFPS,” at DFPS006825968</p>	
<p>PX1964, Adoption Review Committee, “Report of the Adoption Review Committee,” at PLTF0019510</p>	<p>“As a long-term goal, CPS must begin to conduct outside surveys to assess the needs and satisfaction of staff in order to evaluate management and improve outcomes.” (Adoption Review Committee, PLTF0019510)</p>
<p>PX1964, Adoption Review Committee, “Report of the Adoption Review Committee,” at PLTF0019516</p>	<p>“Caseworker burnout/turnover impedes getting to permanency: Survey all staff regularly with an outside consultant to identify problem areas.” (Adoption Review Committee, PLTF0019516)</p>
<p>PX1966, Stephen M. Ryan, Texas Appleseed, “Texas Foster Care: Current Issues, Reform Efforts and Remaining Problems,” at</p>	<p>“Without a well-trained, experienced, and adequately staffed workforce, the foster care system cannot perform its basic functions. In the foster care system, caseworkers are the means by which foster children access critical services. When those caseworkers are inadequately trained, inexperienced, or over-burdened, the system breaks down and children in the system are harmed.” (Ryan, PLTF0006531)</p>

PLTF000653 1	
PX1966, Stephen M. Ryan, Texas Applesseed, “Texas Foster Care: Current Issues, Reform Efforts and Remaining Problems,” at PLTF0006556	“Although many of the problems with the Texas foster care system in 2004 have been improved, serious problems remain. In particular, the problem of increasing conservatorship caseloads and inadequate conservator caseworker staffing, which are closely related to the problem of inadequate funding, are simply getting worse, and the 80th Legislature’s efforts to address the caseworker and caseload issues were inadequate. Without a continued and much more significant effort by the state to address these problems, the children in Texas’ foster care system will suffer.” (Ryan, PLTF0006556)
PX1993, The Stephen Group, “DFPS CPS Operational Review, Phase 1: Assessment/ Findings,” at PLTF0068310	“Figure 4 shows that over one quarter of new workers leaves within 12 months—43% within the first 2 years. This allows situations to grow where workplace turnover is endemic and institutional knowledge is stripped from across the agency. Moreover, the process of constantly providing a significant investment in training new employees who leave shortly after they start is a poor use of taxpayer dollars, and puts a greater demand on other, more experienced employees, who are continually working to bring along new workers, while getting pulled away from their cases. We found that the highest turnover is among newer staff, with 5 or fewer years of services. Every time a less experienced worker leaves, it places a loss of a significant resource across the agency, both in terms of sunk costs in that worker, as well as the replacement cost for a new hire.” (The Stephen Group, PLTF0068310)
PX1993, The Stephen Group, “DFPS CPS Operational Review, Phase 1: Assessment/ Findings,” at PLTF0068314	“Initial training is insufficiently preparing new workforce to be ready to take on real-world CPS challenges. There is not enough high-quality, on-the-job training. There are insufficient mentorship opportunities available during the initial training and once new workers begin their work. CPS’ initial training is heavily focused on compliance and policy and does not adequately emphasize real world experience. It does not seek to create a culture of ongoing learning. Thus, new employees are often ill-prepared to step into a challenging work environment.” (The Stephen Group, PLTF0068314)

<p>PX1993, The Stephen Group, “DFPS CPS Operational Review, Phase 1: Assessment/ Findings,” at and PLTF0068360</p>	<p>“High CPS turnover disrupts continuity and stability of service for the families they serve but also creates instability in the workplace through increased workload and the depletion of skilled workers. Child welfare leaders know high attrition amongst the CPS workforce often has a direct effect on the quality of services and a negative impact on service outcomes. Improving the recruitment and selection of skilled workers is of critical importance to ensure the continuity of quality services and maintain reasonable stability in workload.” (The Stephen Group, PLTF0068360)</p>
<p>PX2037, Viola P. Miller, “Overloaded Caseworkers, An Inadequate Placement Array, and Harm to Children in Texas,” at 13</p>	<p>“The Sunset Advisory Commission reported that ‘given the high stakes of CPS’ work, the Legislature and [DFPS] have long been concerned with reducing chronically high caseworker turnover, which results in a number of problems that directly impact the agency’s ability to meet its mission of protecting children from abuse and neglect.’” (Miller, 13)</p>
<p>PX2037, Viola P. Miller, “Overloaded Caseworkers, An Inadequate Placement Array, and Harm to Children in Texas,” at 13</p>	<p>“As described by Program Administrator Morales from Region 10, turnover can impact case practice by causing workers to miss addressing something that in hindsight was critical.” (Miller, 13)</p>
<p>PX2037, Viola P. Miller, “Overloaded Caseworkers, An</p>	<p>“Turnover has measurable costs . . . It also creates a negative environment that reduces productivity as well as feeds more turnover.” (Miller, 14)</p>

<p>Inadequate Placement Array, and Harm to Children in Texas,” at 14</p>	
<p>PX2037, Viola P. Miller, “Overloaded Caseworkers, An Inadequate Placement Array, and Harm to Children in Texas,” at 15</p>	<p>“The Sunset Advisory Committee found that the negative impacts of caseworker turnover include: ‘Lack of continuity in providing services to families and children; [l]ack of consistent, timely visits to children in state custody; [a]dded workload for remaining workers, causing further turnover; [s]ignificant costs to the State in recruitment and training costs as well as lost productivity.’” (Miller, 15)</p>
<p>PX2037, Viola P. Miller, “Overloaded Caseworkers, An Inadequate Placement Array, and Harm to Children in Texas,” at 21</p>	<p>“In my expert opinion, because workloads are extremely high, caseloads exceed the agencies’ analysis of the level at which work can be done, and case workers are spending only 26% of their time in direct service, all children in the General Class are at an unreasonable risk of being assigned to a caseworker whose caseload exceeds reasonable limits and results in harm or substantial risk of harm to the child.” (Miller, 21)</p>
<p>12.02.14 B. Miller Direct, at 41:6-16</p>	<p>Q “Did the turnover of caseworkers that you’ve described have an impact on your ability to build relationships with the children on your caseload?” A “Yes.” Q “Can you describe that impact?” A “They’re less likely to open up and you have to work super hard to get them to open up and to trust you when you’re the multiple worker that they’ve had, and what’s to keep you staying there with them. And if workers before you didn’t really perform to their utmost, then they don’t believe that you’re going to work for them either.” (B. Miller Direct, 41:6-16)</p>
<p>12.03.14 Carpenter Direct, at 16:4-14</p>	<p>Q “Do they tell you about their caseworkers and the relationship they have with their caseworkers?” A “It is very uncommon for them to speak of a caseworker that has stayed with them for any period of time. They speak of caseworkers being turned over a lot as far as they have many caseworkers over their time in CPS and them not</p>

	<p>knowing who their caseworker is until sometimes they just show up at the facility that they're at. They don't know if their caseworker has left and that a new one has come until the new one comes. They don't know that they're leaving messages on a phone that nobody is answering anymore." (Carpenter Direct, 16:4-14)</p>
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Item 13: CVS Caseworkers: (6) The Special Master shall evaluate and recommend whether secondary CPU and I See You workers should be maintained. If so, the Special Master shall recommend provisions to make them more effective at protecting foster children from an unreasonable risk of harm.

There is extensive evidentiary support in the record for the various reforms recommended by the Special Masters to address this Item in the Court's Memorandum Opinion and Verdict including, but not limited to, the following:

Documents	Citations
PX2037, Viola P. Miller, "Overloaded Caseworkers, An Inadequate Placement Array, and Harm to Children in Texas," at 57	"In the month of February 2012 there were 2,184 children in PMC assigned to an I See You worker. In July 2014, there were 3,944 children in care assigned to an I See You worker. The only responsibility of these workers is to visit the child and they are not required to follow up on any needs identified during the visit beyond communicating those needs to the primary caseworker. According to Sherry Gomez, Regional Director Region 10, there is no requirement for the conservatorship worker to ever visit a child placed out of the home region." (V. Miller, 57)
12.01.14 McCall Redirect, at 61:20-62:4	Q "And that's literally I See You with an S-E-E. And these are not primary conservatorship caseworkers, are they?" A "Correct." Q "They, in fact, have a much larger group of children that they're supposed to see on a regular monthly basis, true?" A "Yes." Q "And one of the reasons why ten years ago you did this is because children were being sent to places far from where their primary caseworker was, true?" A "Correct." (McCall Redirect, 61:20-62:4)
12.01.14 McCall Redirect, at 62:11-64:25	Q "And so the primary caseworker, as you explained to the Court early in your testimony, has a really important job, which you called a critical job, with each of these children." A "Yes." Q "Does it not? And one of the jobs that the primary caseworker has with these children is getting to know the children so that they know whether they're -- they can judge whether they're being emotionally and physically harmed or whether they're okay." A "Correct." Q "And sometimes, certainly -- especially with emotional harm -- you need to know who -- the child before you can tell something is wrong. Isn't that true?" A "Yes." Q "And that's what these primary

	<p>caseworkers are doing. They have that very important role with these children, including PMC children, to understand who they are and to develop a bond with them, don't they?" A "Yes." Q "And when that child is moved by DFPS outside of county, even outside of region, that primary caseworker cannot physically go visit that child on a regular basis, right?" A "For the most part that's true, yes." Q "So, ten years ago and even today the situation exists where the primary caseworkers can't continue to do their job and so you now have what you call I See You workers that stand in their place, true?" A "Yes, for the face-to-face visits." Q "For the face-to-face visits. And they're called secondary workers because they don't have the responsibilities that primary conservatorship caseworker has, do they?" A "No, they don't." Q "The responsibility that you give to -- that the State gives to these I See You workers is exactly what their name is, it's for them to look and see if the child, every month, is, still there, true?" A "Well, they do more than that, but yes, that's a big part of it is seeing the child." Q "That's why they got the name, I See You, to make sure the child is there, true?" A "Yes." Q "Now, you'd certainly like for them to do more, but they don't have the same responsibilities as the primary caseworker, do they?" A "They don't have to write court reports, go to court, work with the parents, correct." Q "They're not responsible for the case planning, true?" A "They have input in the case planning." Q "They're not responsible for the case planning like the primary caseworker." A "Correct." Q "They're not responsible for the service planning like the primary caseworker." A "Other than the service planning at the facility or wherever the child is placed. They're involved with that." Q "They're not responsible for the permanency planning like the primary caseworker." A "Correct. They have involvement, but they're not responsible for it." Q "So, you have this very vital primary conservatorship caseworker that is from the home county of the child and the State sends the child -- 40 percent of them at any one time --out of county. And that's why you have to have I See You workers that don't have the same responsibilities as the primary caseworker, right?" (McCall Redirect, 62:11-64:25)</p>
<p>12.01.14 McCall Redirect, at 65:6-65:17</p>	<p>Q "But the one thing we do know is that they are religious about making -- checking a box, 'I saw that child this month.' True?" A "Just like our other workers are, yes." Q "And I say they're religious about it because you guys at the State maintain very high face-to-face contact numbers, meaning somebody saw that child every month, true?" A "True." Q "But if that child is not with their primary caseworker who is responsible for case planning and is responsible for service planning and is responsible for permanency planning, that's not a good thing for that child, is it?" (McCall Redirect, 65:6-17)</p>
<p>12.02.14 B. Miller Direct, at 45:20- 46:13</p>	<p>Q "What is an ICU worker, to your understanding?" A "An ICU worker is a courtesy worker that is outside of your region that sees your child monthly and helps coordinate those services for that child." Q "What impact did the assignment of an ICU worker to a child on your caseload have, if any, in relation to your ability to build the relationship with a child, as you've testified to earlier?" A "It can make it difficult not seeing that child face to face, not having appropriate means to communicate with that child all the time. Still making phone calls every month to</p>

	<p>that child, I don't know for sure if they're really talking to me alone, if they feel coerced into saying certain things, because I can't see them to know if there is a foster parent or a responsible party near them and they're not talking to me alone. It takes that human connection away from me, but I'm still the one held responsible for that child and their safety to ensure everything is in place. I don't know if that caseworker is cutting corners." (B. Miller Direct, 45:20-46:13)</p>
12.02.14 B. Miller Redirect, at 58:16-20	<p>Q "In your experience, was the ICU worker a suitable substitute for you as the primary-assigned conservatorship caseworker to make hands-on, face-to-face contact with the child you were serving?" A "No." (Miller Redirect, 58:16-20)</p>
12.02.14 Solis Direct, at 14:1-12 and 14:25-15:3	<p>Q "When an ICU worker is assigned to one of your child clients, does that ICU worker take over court responsibility on that case?" A "They do not." Q "Do they take over case planning responsibility on that case?" A "They do not." Q "Do they conduct the permanency planning for a child in such a case?" A "They do not." Q "Who retains that function?" A "The primary caseworker retains that function," (Solis Direct 14:1-12) and Q "In your experience, is there an impact on the progress of a child's case when an ICU worker is assigned to perform the monthly visits, as opposed to the primary caseworker?" A "I believe there is." (Solis Direct, 14:25-15:3)</p>
12.03.14 Arce Direct, at 50:20-51:10	<p>Q "Did you have a worker who visited you during that period?" A "I had an ICU worker at this time because I was transferred from Lubbock to Dallas." Q "And did you have any discussions with the ICU worker about the issues--" A "I discussed with him several times about my position, about like how my aunt was -- at first I wanted to get my social security card and my birth certificate to help my aunt out and get a job the first four months. But every time I kept asking him about it, he would say, 'Oh, I forgot,' in the first four months. And whenever--" THE COURT: "Who's your -- who was this?" A "My ICU worker." THE COURT: "Your ICU worker." A "And at the time I called my caseworker and she would not answer or pick up my calls." (Arce Direct, 50:20-51:10)</p>
12.03.14 Carpenter Direct, at 22:11-23:7	<p>Q "Are you familiar with what are called 'ICU caseworkers'?" A "Yes." Q "And --" A "If I took a child from another region, then there would be an ICU worker -- or that would come out to see the child for the worker in the other area." Q "Did you have children that had ICU workers?" A "Yes." Q "And what was your experience with the ICU workers?" A "They would come out for, like, an hour every month or so." Q "Did they have a relationship with your children? Did the children know them? Did they have a good relationship with the children?" A "No." Q "Were they able to interact with the children and know their history, anything like that?" A "For an hour, they laid eyes on them. That's what they did." Q "Did you see them as being a good substitute for a primary caseworker that actually knows the child and has a relationship with the child?" A "No." (Carpenter Direct, 22:11-23:7)</p>

<p>12.03.14 Jackson Direct, at 186:23- 187:14</p>	<p>A “And ICU, she would just call and sometimes she would just show up at the door and ask me five questions and leave, and that was it.” THE COURT: “Did she come every month to see you in person?” A “No. She -- she came about, I would say once every two months. It was -- no one ever came monthly, none of my caseworkers. I may have had a phone call from them, but not a monthly visit.” BY MS. LOWRY: Q “And when you said you had a worker who came to the door, what do you literally mean by that?” A “She literally just met me at the door and asked me, am I okay? When's the last time you seen a doctor? Are you going to school? When was the last time you've been to school? Oh, okay, and that was it. It was just five minutes, if that and gone, so.” (Jackson Direct, 186:23-187:14)</p>
<p>12.03.14 Voelkel Direct, at 23:4-15</p>	<p>THE COURT: “So when they move like from Lubbock to Houston, you're still their caseworker?” A “Yes, your Honor. They have an ICU caseworker that is assigned as a secondary caseworker that visits them face-to-face monthly and documents the face-to-face visitation.” THE COURT: “But their primary caseworker doesn't --” A “Would still be me, yes, ma'am.” THE COURT: “-- do face-to-face. And you don't -- you can't do face-to-face.” A “No, correct. So the ICU worker, the secondary caseworker, would do that.” (Voelkel Direct, 23:4-15)</p>
<p>12.03.14 Voelkel Direct, at 24:6-25:9</p>	<p>Q “When children on your caseload were placed out of region, were they from time to time assigned an ICU worker?” A “Yes. The primary worker is responsible for requesting an ICU worker.” Q “Now, when an ICU worker was assigned to a child on your caseload, did you retain court responsibility?” A “Yes.” Q “Did you retain case planning responsibility?” A “Yes. The ICU worker could attend the service planning as far as the foster home agency. I was still responsible for the child plan, and that would be the department's side of child -- of planning.” Q “Did the fact that you weren't conducting the monthly visits with the child on your caseload impact your case planning, services planning, and delivery of those services to the child?” A “I believe that it definitely does. I have a really hard time trusting somebody else to rely on their information. I don't -- having a middle man, to me, causes more problems than it does being the front -- on the frontline. I don't know -- I've never met these ICU workers face-to-face. Most of them I don't -- I think I might have met one. I don't know -- I mean, I'm entrusting the department that they -- that this person is going to do what I'm going to testify to when I got and report to the Court on this child's life and update them on their current status. So I -- for me it only caused more frustration and stress and confusion because there's a middle man and it was difficult to trust that that information is there or accurate.” (Voelkel Direct, 24:6-25:9)</p>
<p>12.04.14 Burry Direct, at 38:14-39:1</p>	<p>Q “And somebody with experience -- the experience that you have, how do children achieve permanency? What role does the worker play in achieving permanence with children?” A “The worker is the quarterback of a team of -- if you will, individuals who work on behalf of the child. That is, the worker -- the primary worker knows the child's history, knows the child, has a relationship, is meant to be a constant in the child's life so that decisions that are made about placements, decisions that are made</p>

	<p>about health care, psychological care, every other part of responsibility for the child is seeded with the primary worker. The primary worker is the one who writes the case plans, who presents reports to the various Courts and foster care review boards about the child’s progress in care.” (Burry Direct, 38:14-39:1)</p>
<p>12.04.14 Burry Direct, at 40:21- 42:14</p>	<p>Q “And did you see those kinds of visits taking place in these three children’s records?” A “I saw a real fragmentation because they had so many different workers and some of those were ICU workers. And what I saw, then, in the record was that often visits were when ICU workers or others saw the children and, documented as just I saw the child, I spoke to him or her and not a -- not documentation of the kind of planful intentional visit that achieves the outcomes. What happened -- what I saw in the record was -- the three records was that there’ll be two big problems with regard to quality and consistency of case work visits. One is that quite a bit of the time the worker visiting the child didn’t have a relationship with the child, didn’t know the child’s history, hadn’t -- you know, I gave some examples earlier of concerns that were raised about were from the children but since they weren’t necessarily seeing the same worker, there wasn’t documentation that those had necessarily been addressed with continuity with the child. So the -- each youngster quite a bit of the time was seeing different workers. These are primary workers who are -- for two of them, ICU workers. So you had -- you didn’t have the relationship and the planful carrying out of case work visits. And then the second problem -- the other problem that I saw with that is when ICU workers or others saw the children and, you know, documented those contacts in the record, they weren’t the workers -- they weren’t the -- when others, then, the primary workers did that, the primary workers were relying on the work of others rather than their own -- they were making plans for the children but they weren’t seeing the children and --” Q “They being the primary workers?” A “They -- the primary workers. So that’s a -- that’s a substantial departure to be the person response -- with responsibility for case planning but not being the one who is seeing the child.” Q “And do you have an opinion as to whether this is likely to be harmful to children?” A “Yes.” Q “And what’s that opinion?” A “I think that it is likely to be harmful for children in terms of both increasing the likelihood of moves, fragmentation of services, and then not achieving permanence.” Q “And did you see the actual -- that likelihood of harm turn into a reality of form in these three children’s cases?” A “Yes.” (Burry Direct, 40:21-42:14)</p>
<p>12.04.14 V. Miller Direct, at 13:24- 14:12</p>	<p>Q “Now, in your opinion as a person that’s run child welfare systems in two states, is it okay to have overloaded primary conservatorship caseworkers if you have a lot of secondary workers that you’ve arrayed in the system?” A “It is not okay.” Q “Why not?” A “Because that caseworker is still your bedrock. They still have the primary responsibility. And what I learned the hard way, as we began to implement a teaming model around our families and we really created very large teams and I thought naively this is going to save my case managers’ -- my direct service case managers’ time. It does not. It significantly improves the quality of work but it actually adds time and responsibility to that case manager.” (V. Miller Direct, 13:24-14:12)</p>

12.04.14 V. Miller Direct, at 15:7-11	Q "Can you have a system that protects children from an unreasonable risk of harm if you have overloaded primary caseworkers and you put a bunch of secondary workers around them?" A "You cannot." (V. Miller Direct, 15:7-11)
12.04.14 V. Miller Direct, at 19:5-14	Q "All of those secondary workers -- because again, I'm just going to ask you what I asked you a minute ago. All these secondary workers in Texas -- from your perspective as having run two child welfare systems, does that compensate for overburdened primary conservatorship caseworkers?" A "No." Q "Does it reduce or eliminate the unreasonable risk of harm to the children from overburdened primary conservatorship caseworkers?" A "No." (V. Miller Direct, 19:5-14)
12.04.14 Sharp Direct, at 166:16-24	"Q Did you develop relationships with any of the caseworkers, either the ones that were employed by DFPS or that you otherwise saw?" A "No. It's near impossible to form a relationship with somebody that you've seen a handful of times or two handfuls of time. So I don't think that would be accurate at all. I knew who my workers were but I -- I don't think I built a relationship with them. That certainly should have been established for someone who was in the system for so long." (Sharp Direct, 166:16-24)
12.04.14 Sharp Direct, at 167:2-25	"Q Do you remember ever seeing any ICU workers?" A "Yeah. So I am from Amarillo, Texas, what we call 'Region 1' and I only stayed in about three placements in Amarillo and -- or around the area and then after that, I moved -- my first placement far away was in Tyler and then I lived in Dallas and Denton, El Paso, Austin, San Antonio, Houston and a number of other cities but I remember staying at a center called the 'Nelson Center' in Denton, Texas and I was there for, like, a year and a half. That was one of my longest placements and I've seen an ICU worker two or three times, I think. It was a different one each time but I remember her coming in and seeing all of us kind of in a group, all the people who are from, like, the region or whatever. And I remember her explaining she was kind of like a surrogate." Q "So you didn't -- did you ever spend any private time with her?" A "Oh, no. She came and seen us all in groups. There was usually a staff member from the Nelson Center there and it was very quick. It was, like, five or ten minutes and she asked us if they -- we were, like going to school and if we had clothes and, I mean, other things. I don't ever recall being asked about if I was comfortable or if I was safe or if I felt loved or things, I guess that -- I don't know -- should probably be asked if you're trying to check on children." (Sharp Direct, 167:2-25)
12.05.14 Carter Direct, at 87:22-88:1 and 88:8-17	Q "Now, how do you -- just based on all your psychological examinations have you drawn any conclusions about the bond or relationship between the primary case worker and the child versus the child and some of these other secondary or courtesy case workers?"...A "Children who are placed outside their region and who have a case worker -- I refer to them as courtesy case workers -- that checks in on them from time to time, they know that that's the equivalent of a substitute teacher, she's not the real thing. Very, very rarely would a child view an ICU or courtesy case worker as somebody that is there to support them. They intuitively know that this person is just

	fulfilling a service or a requirement by looking in on them. But that relationship, in my experience, is never quality.” (Carter Direct, 87:22-88:1 and 88:8-17)
12.08.14 Bowman Cross, at 28:8-21	Q “One of the problems in a service plan for a child like a PMC child that's in the system a long time is that if they get sent outside the region, they're not being seen by their primary case worker any more are they?” A “Correct.” Q “And if you have 30 or 40 percent of your children outside the region, they're going to be seen by ICU workers aren't they?” A “Correct.” Q “ICU workers that are in different regions, true?” A “Correct.” Q “ICU workers that don't report to you up your chain of command do they?” A “Correct.” (Bowman Cross 28:8-21)
12.11.14 Burstain Cross, at 62:12-18	Q “But we know -- at least you've been sitting here in court -- that the primary caseworker is the one that's responsible for the child's service plan. Right?” A “Yes.” Q “And the ICU worker is not responsible for the child's service plan. True?” A “Yes.” (Burstain Cross, 62:12-18)
12.11.14 Burstain Cross, at 67: 2-7	Q “And then you added in all of the ICU workers from all the regions. True?” A “Yes.” Q “And they don't have the responsibilities of primary caseworkers, do they?” A “That's correct.” (Burstain Cross, 67: 2-7)
PX2037, Viola P. Miller, “Overloaded Caseworkers, An Inadequate Placement Array, and Harm to Children in Texas,” at 58	“Both I See You and IYES are initiatives developed because the agency has an inadequate placement array. They would not be necessary if the placement array were adequate to meet the needs of children in care and keep them in or close to their home communities. In my experience, I cannot imagine how a primary caseworker can provide quality permanency casework when she is not visiting the children for whom she is responsible. Nor can a worker who has no permanent relationship with a child win a child’s trust in a sufficient way to have the child actually reveal what is happening in the child’s life, particularly if the child is being subjected to maltreatment.” (V. Miller, 58)
12.02.14 B. Miller, at 43:3-45:13	Q “During your tenure as a conservatorship worker, Ms. Miller, were children on your caseload from time to time placed outside of their home county or region?” A “Yes.” Q “How frequently did that occur for the children you were serving?” A “That would be the majority of my cases.” Q “The majority?” A “Yes.” Q “And when these children were placed out of county, how far away from their home community, typically, were we talking about?” A “And hour or more, sometimes across the state.” Q “What impact would that have on the child in terms of their connections in their home community?” A “It would suffer, because they wouldn't be there to continue those relationships with friends or family or just the community in general, things going on that they've grown up participating in.” Q “Would it have an impact on a child's education?” A “Sometimes, because there is yet another move, another

	<p>change in their life.” Q “Would it sometimes have an impact on the ability of that child to sustain relationships with parents or siblings?” A “Yes.” Q “And why was that?” A “Because it makes it harder and more complicated getting the parents together, with their timeframes, availability, the children, the siblings, if they were split up; making all of those different connections come together.” Q “Is it -- I’m sorry. Did you complete your response?” A “Yes, sorry.” Q “I apologize. Is it, in your training and experience, preferable that a child in DFPS conservatorship be placed in their home community?” A “Absolutely.” Q “Why is that preferred?” A “Well, it makes those relationships much easier to keep and rebuild and strengthen. It’s less time out in the field for the caseworker. It’s less commute time for the children. If we have to -- you don’t need to be removing them from school. Most of them are behind anyway, then you’re taking more time away from that to do visits. Parent’s work schedules; it just becomes such a nightmare to try and keep up.” Q “In your experience, did DFPS have enough placement resources in the regions or counties you were working within to be able to make timely and proper placement matches between children and foster caretakers within home communities?” A “There seemed to be enough placement. It’s just that when a placement goes bad or there is a blowup, there is a triage effect of just trying to get a child into another safe placement. So that might mean the first available one would be out of region. And then it snowballs from there. So you have children coming into your region and children leaving your region just trying to find a placement at times, instead of just keeping them within that region.” Q “So do I understand you to be saying that placements would sometimes be made based on the availability of a bed rather than the appropriateness of the match?” A “Yes.” (B. Miller Direct, 43:3-45:13)</p>
<p>12.02.14 B. Miller, at 90:23- 91:18</p>	<p>Q “One of the responses that the State has told us is that they have these ICU workers that can go visit the children. You’ve told us that you’re not familiar with any other state 1 that has ICU workers, at least of the states that you know of, right?” A “Right.” Q “Is an ICU worker, in your opinion, an adequate substitute for the primary conservatorship worker for these children?” A “No.” Q “If you fix the placement array, Dr. Miller, will – in your opinion, will you need ICU workers?” A “No.” Q “Based on everything that you’ve read about the State of Texas, why did they come up with this idea of ICU workers?” A “Because they didn’t have an adequate placement array and their workers were spending too much windshield time.” Q “‘Windshield time’ meaning?” A “In the car driving, traveling.” Q “Is that a good reason to separate the children from their primary conservatorship caseworker?” A “No.” (V. Miller Direct, 90:23-91:18)</p>
<p>12.03.14 Voelkel Direct, at 23:4-15</p>	<p>THE COURT: “So when they move like from Lubbock to Houston, you’re still their caseworker?” A “Yes, your Honor. They have an ICU caseworker that is assigned as a secondary caseworker that visits them face-to-face monthly and documents the face-to-face visitation.” THE COURT: “But their primary caseworker doesn’t --” A “Would still be me, yes, ma’am.” THE COURT: “-- do face-to-face. And you don’t – you can’t do face-to-face.” A “No, correct. So the ICU worker, the secondary caseworker, would do that.” (Voelkel Direct, 23:4-15)</p>

12.03.14 Voelkel Direct, at 24:18-25:9	Q “Did the fact that you weren't conducting the monthly visits with the child on your caseload impact your case planning, services planning, and delivery of those services to the child?” A “I believe that it definitely does. I have a really hard time trusting somebody else to rely on their information. I don't -- having a middle man, to me, causes more problems than it does being the front -- on the frontline. I don't know -- I've never met these ICU workers face-to-face. Most of them I don't -- I think I might have met one. I don't know -- I mean, I'm entrusting the department that they -- that this person is going to do what I'm going to testify to when I got and report to the Court on this child's life and update them on their current status. So I -- for me it only caused more frustration and stress and confusion because there's a middle man and it was difficult to trust that that information is there or accurate.” (Voelkel Direct, 24:18-25:9)
12.02.14 B. Miller Redirect, at 58:11-15	Q “You testified that when ICU workers were assigned to some of your children to substitute for you in making face-to-face or hands-on appearances with kids or interviews with kids that you couldn't always trust their feedback?” A “Correct.” (B. Miller Redirect, 58:11-15)
12.02.14 B. Miller Cross, at 55:17-25	Q “Did you ever have a situation where you found that the ICU worker wasn't telling you -- what the ICU worker was telling you was not correct?” A “Yes.” Q “And what was that?” A “They were not spending that much time with the child and they were not talking with the child privately to know that there were underlining [sic] issues between the child and the foster placement.” (B. Miller Cross, 55:17-25)
12.02.14 B. Miller Direct, at 45:24- 46:14	Q “What impact did the assignment of an ICU worker to a child on your caseload have, if any, in relation to your ability to build the relationship with a child, as you've testified to earlier?” A “It can make it difficult not seeing that child face to face, not having appropriate means to communicate with that child all the time. Still making phone calls every month to that child, I don't know for sure if they're really talking to me alone, if they feel coerced into saying certain things, because I can't see them to know if there is a foster parent or a responsible party near them and they're not talking to me alone. It takes that human connection away from me, but I'm still the one held responsible for that child and their safety to ensure everything is in place. I don't know if that caseworker is cutting corners. All of that still comes back to me.” (B. Miller Direct, 45:24-46:14)
12.08.14 Bowman Cross, at 28:8-12	Q “One of the problems in a service plan for a child like a PMC child that's in the system a long time is that if they get sent outside the region, they're not being seen by their primary case worker any more are they?” A “Correct.” (Bowman Cross, 28:8-12)

Item 14: CVS Caseworkers: (7) The Special Master shall recommend other provisions deemed necessary to ensure that primary CVS caseworkers are able to protect foster children from an unreasonable risk of harm.

There is extensive evidentiary support in the record for the various reforms recommended by the Special Masters to address this Item in the Court’s Memorandum Opinion and Verdict including, but not limited to, the following:

Documents	Citation
PX2015, William Lee Carter, “Common Types of Harm Identified in Psychological Evaluations of the Named Plaintiffs,” at 4	Information is confidential, filed under seal, or otherwise covered by Amended Protective Order. (Docket Entry 138).
PX2037, Viola P. Miller, “Overloaded Caseworkers, An Inadequate Placement Array, and Harm to Children in Texas,” at 7-8	“Caseworkers are the frontline workers of the child welfare system. Their vital responsibilities include matching children with the most appropriate and least restrictive placement, monitoring that children are safe and their needs are being met in their placements, ensuring that children receive needed services, and developing and implementing permanency plans for children so they exit custody to permanent families as quickly as possible. In addition to addressing the needs of children, caseworkers must address the needs of families and substitute families, and the integration of those individuals with the larger community. Caseworkers must address the issues of education, health care, social integration, and support to move children and families to self-sufficiency whether a child will grow up in her own home or with an alternative family. As stated by Director of Field McCall, caseworkers are critical to the provision of child safety, permanency and well-being: ‘our caseworkers have an awesome amount of responsibility.’” (V. Miller, 7-8)
12.02.14 B. Miller Direct, at 33:12-18	Q “In your training and your experience, what is the importance of a primary conservatorship worker to a child in DFPS conservatorship?” A “I felt like their lifeline, their connection to everything, ensuring that their safety was met, that they continued to have their family connections met, and helping improve their family life. That way they could return home.” (B. Miller Direct, 33:12-18)

<p>12.03.14 V. Miller Direct, at 23:24-24:20</p>	<p>Q “Let’s move to that first main area, the caseload area, and start with case workers and how important – based on your personal experience – the Judge has heard a lot of testimony about this, but I want to -- if you could, from your personal experience, how important are the primary conservatorship type case workers to the child welfare system?” A “Well, that -- that primary case worker, that -- that’s our frontline resource. That’s the face the child person. In a child welfare system, they are absolutely essential – you know, when we take -- when we remove a child, we’re essentially saying to that family we can be a better parent. We have more to offer. And it’s that case worker that really makes that difference in making certain that, in fact, if we remove a child, we provide that child with something better than what we remove that child from.” Q “And we’ve heard a lot of testimony in the case that the state has elicited that there’s all sorts of case workers -- different kinds of case workers. And in the Texas system, which is that essential case worker that you’re talking about, what’s their name in the Texas system?” A “It’s a conservatorship worker. They call them conservatorship workers.” (V. Miller Direct, 23:24-24:20)</p>
<p>12.03.14 V. Miller Direct, at 26:11-27:18</p>	<p>Q “Now, you talked about the primary conservatorship case workers being the -- I think you said essential or the bedrock. What sort of responsibilities here in Texas do they have based on your investigation?” A “Well, that -- the -- that primary case worker has the responsibility of developing and implementing that case service plan and if the family is still the -- the birth family is still involved, a birth family plan as well -- or parenting plan, although those are not necessarily required for the PMC children. But they also -- that case worker has that responsibility. The basic work is safety, permanency, and wellbeing. So that case worker has the responsibility for seeing that -- ensuring that that child is placed in an environment where we have at least a reasonable assurance that that child is going to be free from harm. In terms of wellbeing, we have a -- although I consider permanency a very important part of wellbeing -- but because the nomenclature typically breaks them out, I will -- educational issues for children, medical issues, social issues. Seeing that those are addressed so that that child -- the idea is, if we have to take a kid into custody, we want to keep them as short a period of time as possible. And during that period of time, we want for them the same thing we want for our own children, and that is that they stay on a path to a successful adulthood, that we not disrupt that developmental process by what we do with children. And those are sort about those wellbeing issues. And then I think permanency is a singularly most important wellbeing issue and that case worker -- and remember I said before, foster care is temporary. We always say that -- that permanency begins with a knock on the door. From the first day we make contact with that child, our obligation is to be moving that child in back into his own home or into a permanent alternative if he cannot return to his family.” (V. Miller Direct, 26:11-27:18)</p>
<p>12.03.14 V. Miller Direct, at 33:24-34:30</p>	<p>Q “So in the Texas system, who is that one worker that has the biggest responsibility in your opinion to help that child, that PMC child, achieve safety, permanency, and wellbeing?” A “That’s the primary case worker.” (V. Miller Direct, 33:24-34:3)</p>

12.04.14 Burry Direct, at 36:2-17	Q “And so let’s go through those one by one. With regard to worker turnover, in what way did DFPS act inconsistently with accepted professional judgment with regard to worker turnover in these children’s cases?” A “Each of the children had a number of primary workers and at this point, I’m talking about the primary worker, the worker with the overall case planning and case management and case work responsibility for the child. And that primary worker is meant to be constant and stable in the youngster’s life and with the overall responsibility of having a relationship with the child, knowing the child, knowing the child’s history and guiding the child toward permanence which is the goal – was the goal for each of these children in care. And instead, I found that there was disjointed and fragmented – not surprisingly, case work because I believe in part of the number of primary case workers that the children had.” (Burry Direct, 36:2-17)
12.04.14 Burry Direct, at 38:14-39:1	Q “And somebody with experience -- the experience that you have, how do children achieve permanency? What role does the worker play in achieving permanence with children?” A “The worker is the quarterback of a team of -- if you will, individuals who work on behalf of the child. That is, the worker -- the primary worker knows the child’s history, knows the child, has a relationship, is meant to be a constant in the child’s life so that decisions that are made about placements, decisions that are made about health care, psychological care, every other part of responsibility for the child is seeded with the primary worker. The primary worker is the one who writes the case plans, who presents reports to the various Courts and foster care review boards about the child’s progress in care.” (Burry Direct, 38:14-39:1)
12.05.14 Carter Direct, at 85:12-21	Q “And tell us what your experience is in that respect [with regard to seeing and understanding how the primary case worker is important to foster children].” A “When children are placed in foster care, they want to know who’s the decision maker, how am I going to function, where do I know or how do I know where I’m going to be going next, who makes those decisions. The case worker is introduced to the child as the person that is in charge, so to speak, of their case. That is their point person, the person they look to for support, guidance, understanding and so forth. That’s the person the child comes to rely on to get them through this experience.” (Carter Direct, 85:12-21)
12.08.14 Bowman Cross, at 11:7-15	Q “One of the things that you agree is critical, very important to the entire system, are these primary conservatorship case workers, right?” A “Yes.” Q “They are the bedrock of the child welfare system in our state aren’t they, the conservatorship workers?” A “Correct.” Q “Certainly for PMC children, right?” A “Correct.” (Bowman Cross, 11:7-15).
PX2037, Viola P. Miller, “Overloaded Caseworkers,	“Nor can a worker who has no permanent relationship with a child win a child’s trust in a sufficient way to have the child actually reveal what is happening in the child’s life, particularly if the child is being subjected to maltreatment.” (V. Miller, 58)

<p>An Inadequate Placement Array, and Harm to Children in Texas,” Report 2014, at 58</p>	
<p>12.03.14 Bentley Direct, at 63:10-64:2</p>	<p>Q “During the time you were in foster care, did you have a caseworker?” A “Well, I’m pretty sure everyone has caseworkers when they’re in CPS, but did I have relationships with my caseworkers or did I really know who they were? No.” Q “Were you aware of caseworkers visiting these various placements you were in?” A “Sometimes yes and a lot of times when the caseworkers would come and I would know that they were there, I mean, I was really relieved when they would come. But it was rare.” Q “Why were you--” THE COURT: Once a month or how much? A I wouldn’t even say once a month. Like I would barely see the caseworkers that I would have. When I was in foster care -- of the time that I spent in care I only remember specifically two caseworkers and like seeing one, but it was rare. Like I wouldn’t even say it was once a month or for any amount of time.” (Bentley Direct, 63:10-64:2)</p>
<p>12.03.14 Bentley Direct, at 67:25-68:6</p>	<p>Q “Did you ever feel that any of your CPS caseworkers would protect you?” A “No. How could -- they never had time. Like even when they were visiting with me, it was a few minutes, maybe 15 minutes at the most, so there was no real -- like how could they connect with me or get to know me? You know, just -- and I don’t think they could protect me at all.” (Bentley Direct, 67:25-68:6)</p>
<p>12.03.14 Carpenter Direct, at 17:19-24</p>	<p>Q “Have you heard stories about -- from the children about the caseworkers and how busy the caseworkers are?” A “I’ve heard stories of their calls not being returned. I’ve heard -- you know, with serious issues where they are -- you know, they’re trying to talk about what’s happening to them and where they are and they’re not getting calls back.” (Carpenter Direct, 17:19-24)</p>
<p>12.03.14 Virgil Direct, at 202:13-18</p>	<p>Q “Was the foster mother in the foster group home someone you could go to with your problems?” A “No.” Q “Was there a caseworker that you knew of that you could go to with your problems?” A “No.” (Virgil Direct, 202: 13-18)</p>
<p>12.04.14 Sharp Direct, at 166:5-24</p>	<p>Q “You had two primary caseworkers?” A “Two caseworkers during my time in CPS, uh-huh.” Q “And did you see those caseworkers very often?” A “Not a lot. In fact, probably around 10 or 12 times in person.” Q “During the whole time you were in care, during the eight years you were in care?” A “That’s correct...” Q “Did you develop relationships with any of the caseworkers, either the ones that were employed by DFPS or that you otherwise saw?” A “No. It’s near impossible to form a relationship with somebody that you’ve seen a handful of times or two handfuls of</p>

	<p>time. So I don't think that would be accurate at all. I knew who my workers were but I -- I don't think I built a relationship with them. That certainly should have been established for someone who was in the system for so long." (Sharp Direct, 166:5-24)</p>
<p>12.04.14 Sharp Direct, at 175:24- 176:17</p>	<p>Q "Do you know whether any of the incidents in which young people were assaulted were reported to DFPS?" A "I can't say I do, no. I do know that it is challenging to report things in the system. I know that I experienced a lot of abuse and that my story is not unique and that this is something that happens across the system to young people and I didn't know how to report it. I would think now being a social worker and having, you know, looked at the system from another perspective that it would be the duty of the caseworker to -- you should be able to report to them but I didn't know there was a number that I could call. Even if there was, I wouldn't have access to it. I didn't have anyone who I felt comfortable reporting these things to and I think these are the feelings of most children in the system and so I can't imagine that DFPS would even be able to understand the depth of abuse that happens in the system and I certainly wouldn't be able to trust any -- I don't know, any number they tried to put on anything because there is abuse happening all the time that simply is not being reported." (Sharp Direct, 175:24-176:17)</p>
<p>12.05.14 Carter Direct, at 87:22-88:1 and 88:8-17</p>	<p>Q "Now, how do you -- just based on all your psychological examinations have you drawn any conclusions about the bond or relationship between the primary case worker and the child versus the child and some of these other secondary or courtesy case workers?"...A "Children who are placed outside their region and who have a case worker -- I refer to them as courtesy case workers -- that checks in on them from time to time, they know that that's the equivalent of a substitute teacher, she's not the real thing. Very, very rarely would a child view an ICU or courtesy case worker as somebody that is there to support them. They intuitively know that this person is just fulfilling a service or a requirement by looking in on them. But that relationship, in my experience, is never quality." (Carter Direct, 87:22-88:1 and 88:8-17)</p>
<p>12.05.14 Carter Direct, at 91:2-4 and 91:13-24</p>	<p>Q "And again, tell us what you've observed in those prior occasions the impact on these children of a case worker that does not have a meaningful relationship with them."...A "When I would see children and teenagers who were in state care and recognized that they did not have good relations with their case worker or limited visitation or contact with case workers, which was common, you could see the despair in the children. Despair is probably a very good word to describe the sense that these kids would feel, those that did not have good relations with a case worker or frequent turnover of case workers. There's a term we refer to within the psychological field, learned helplessness. A child learned that their circumstance was unlikely to change and it manifests itself in the form of a helpless sense or helpless state." (Carter Direct, 91:2-4 and 91:13-24)</p>
<p>12.05.14 Carter Direct, at</p>	<p>Q "Children that have what you just were describing for the Court as learned helplessness, do they tend to stop trying to complain and stop trying to report bad things that happen to them?"...A "Yes. That's one of the things that is caused by a</p>

<p>92:2-5 and 92:9-19</p>	<p>state of helplessness. You reach the point where you believe that it doesn't really matter what I say, what I do, my voice is not heard. When you talk to kids who've been abused and you say, Why did you wait for 3 years or 5 years or 20 years to tell that you were sexually abused or physically abused, you very frequently hear the same statement: I was afraid of what might happen, I tried to tell, I dropped hints and nobody listened, nobody understood, and so I just reached the point that I believed that I had to just go through this on my own, on my own terms." (Carter Direct, 92:2-5 and 92:9-19</p>
<p>12.05.14 Carter Direct, at 97:21-23 and 98: 1-11</p>	<p>Q "Sir, you said 'potent.' Can you describe for us what the impact is from a psychological standpoint on these children based on your factual observations over the last 35 years?" ...A "One of the most basic needs any child has is the sense that they are safe. We feel safe when people around us know us and understand us and are working toward our greater good. If a child feels that the person who is directing their life does not know them, does not have contact with them or is ever-changing, that causes a child to feel that her world is not a safe world. And that's a very discouraging feeling or emotion for a child to have. And that sense of discouragement can lead to concerns regarding depression. It can push a child to overstate her thoughts or feelings as a futile attempt to get across a valid point." (Carter Direct, 97:21-23 and 98:1-11)</p>

Item 15: CCL Investigations, Inspections, and Licensing: (1) DFPS must complete a Workload Study to determine the time required for investigators and inspectors to adequately perform their tasks. DFPS will specify how long it takes to complete each task. The Special Master shall recommend how frequently DFPS must complete additional workload studies.

There is extensive evidentiary support in the record for the various reforms recommended by the Special Masters to address this Item in the Court's Memorandum Opinion and Verdict including, but not limited to, the following:

Document	Citation
<p>PX2021, Daryl Kennedy Chansuthus, "DFPS Residential Child Care Licensing: A Second Review," at 5-6</p>	<p>"In high-performance organizations, these management system structures involve: ... The development and implementation of a staffing plan that takes into account effective workloads and supervisory/managerial span of control." (Chansuthus, 5-6)</p>
<p>PX2021, Daryl Kennedy</p>	<p>"In addition to the lack of a robust CQI system within CCL that strengthens RCCL's ability to ensure the safety of children placed in licensed operations, RCCL also</p>

<p>Chansuthus, “DFPS Residential Child Care Licensing: A Second Review,” at 19</p>	<p>lacks a staffing plan that takes into account workloads that support quality practice. As I indicated in my 2012 report, an analysis using 2004 RCCL workload data showed that RCCL workers (inspectors and investigators) in Region 6 would have needed a 26-day work month in 2011 to complete all of their tasks, and workers in Region 3 would have needed an impossible 34-day month to complete their tasks. Since the time of my last report, the amount of necessary licensing work appears to have remained relatively constant, while the number of investigators and inspectors available to do this work has decreased significantly.” (Chansuthus, 19)</p>
<p>PX2021, Daryl Kennedy Chansuthus, “DFPS Residential Child Care Licensing: A Second Review,” at 20</p>	<p>“In addition to the lack of a robust CQI system within CCL that strengthens RCCL’s ability to ensure the safety of children placed in licensed operations, RCCL also lacks a staffing plan that takes into account workloads that support quality practice.” (Chansuthus, 20)</p>
<p>PX2021, Daryl Kennedy Chansuthus, “DFPS Residential Child Care Licensing: A Second Review,” at 63</p>	<p>“And comments of management-level Licensing staff in a 2010 survey conducted by the National Association for Regulatory Administration (NARA) spotlight inadequate monitoring as a consequence of understaffing: these managers felt that caseworker and supervisory responsibility were ‘too large’ and the workload too ‘intense’ to ‘effectively monitor operations.’” (Chansuthus, 63)</p>

<p>PX2114, Child Welfare League of America, "Standards of Excellence for Services for Abused or Neglected Children and their Families," at PLTF0068218-20</p>	<p>"Workload standards developed for child protective services staff should be based on the tasks and activities expected within the child protection agency. Workload standards should be established that make it possible for staff members to complete required tasks and activities. Once workload standards are established, the agency should advocate aggressively for the resources needed to meet those standards. Agencies that adopt a community approach to protecting children will need to rethink the roles and duties of their staff members and to reflect those changes in their workload standards. <i>Workload Standards</i> In developing agency workload standards, the agency should consider: The specific assigned functions and the time required for each task (e.g., intake, assessment/investigation, placement services, court activities, community development, provision of services); The competencies needed for each social work function (knowledge, skills, experience); The time required for travel and other necessary but noncasework tasks; Standards of sound practice; The availability of paraprofessionals and professionals from other services to help with routine activities (e.g., foster families, in-home aides); The intensity of services that the agency and community considers appropriate; The number of other agencies, individuals, or services involved with the family and the amount of time needed to communicate effectively with other community partners; The amount of time needed for community outreach or other activities not tied to a specific family; and [t]he amount of time allocated for activities such as staff meetings, training and development, administrative functions, and personal leave. <i>Caseload Standards</i> Every agency should conduct a workload analysis to determine the appropriate workload standards for its child protective services staff. Until an agency conducts such an analysis, the following caseload standards should be used: [i]nitial assessments should involve no more than 12 active reports per month[;] [o]ngoing services to families opened for services and support after the assessment should involve no more than 17 active families, assuming the rate of new families assigned is no more than one for every six open families[;] [c]ombined initial assessments and ongoing services to families should be no more than ten active ongoing families and no more than four active initial assessments[;] [t]he workload of staff responsible for screening reports of abuse and neglect should be considered separately and staff allocated specifically to this function. Supervision in child protective services is critical to effective service delivery and staff and professional development. The ratio of social workers to supervisors should not exceed five to one." (Child Welfare League of America, PLTF0068218-20)</p>
<p>12.02.14 Morris Direct, at 65: 11-66:20</p>	<p>Q "Now, one of the things that you've never done is try to figure out, on a regular basis, how much work your inspectors and investigators actually can handle during the normal work week, have you?" A "We have not yet undertaken a work measurement study if that's what you're referring to." Q "I am. You don't monitor workload data at all do you?" A "I do not have that data." Q "You don't have any workload targets at all do you?" A "I don't have a workload target, but we do have a work measurement study that is upcoming, and Licensing will be a part of that." Q "You don't have any formal system for flagging workloads that are too high do you?" A "No." Q "You have not asked for a workload study; you, Mr. Morris, has</p>

	<p>not asked for?" A "I have asked for a workload study within Child Care Licensing and we will be up next after APS, Adult Protective Services." Q "I'm sorry, I didn't hear the first part of your answer." A "We have asked for a work --" Q "So, when did you ask for it?" A "-- measurement study. We're part of that." Q "After your deposition?" A "No. The decision was made earlier this year. I want to say in May. What I'm referring to is the work measurement study that is part of the agency-wide effort. As Ms. Black had testified, APS is the first one to start off. My understanding is that Child Care Licensing is the next priority up after they go through one of the work measurement studies to make sure they get the bugs worked out. And then CPS would be after that. Now, if that priority still exists, I would -- I think, as an executive team for the agency, we'll go back and re-look at that." (Morris Direct, 65:11-66:20)</p>
<p>12.02.14 Morris Direct, at 68:9-19</p>	<p>Q "I think what you said is that you have not sought for a work measurement study to be a priority." A "I have not asked for a specific work measurement study to be done just on Child Care Licensing as an independent effort." Q "Let's be -- I want to be clear." A "Okay." Q "You have not asked for a work study to be any sort of priority for your group have you?" A "I have not asked for an independent work measurement study separate from the effort that's going to happen with all of Family and Protective Services." (Morris Direct, 68:9-19)</p>
<p>12.02.14 Morris Direct, at 69:2-10</p>	<p>Q "Have you sought to make a work measurement study for Residential Child Care a priority? Do you remember your answer?" A "I believe, as you said, I think I -- I believe I recall saying that I didn't want to make that a priority at this time." Q "I had not sought for a work measurement study to be a priority for Residential Child Care. There are other priorities right now that appear to be more pressing." A "That is correct." (Morris Direct, 69:2-10)</p>
<p>12.03.14 Chansuthus Direct, at 119:3-120:13</p>	<p>Q "Thank you, Ms. Chansuthus. Maintaining focus for a time on the case loads or workloads carried by RCCL inspectors and investigators --" A "Right." Q: "-- just focusing on that topic, are you familiar, Ms. Chansuthus, with the notion of a workload or time measurement study?" A "I am." Q "What is such a study?" A "When you do a workload study, you are looking at a number of different factors. This talks about RCCL case load, which I find a little confusing. I think more appropriately it should be workload. And workload includes not just as with investigators cases you might be working, but it looks at what tasks you are expected to perform, how much time is required for each task, the actual completion of the task, how much time is required to prepare for that task, how much time is needed to report on that task, how much time if you're needing to travel to places, how much time is required for travel, how much time is required to conduct interviews if those are part of the tasks that you have to do, how many different people you're expected to do and what time generally is involved in that." (Chansuthus Direct, 119:3-120:13)</p>

<p>12.03.14 Chansuthus Direct, at 121:6-122:7</p>	<p>Q “Ms. Chansuthus, are you familiar with any professional standard that speaks to the issue of workload or time measurement studies?” A “I am.” Q “Can you identify such standards?” A “NARA provides a very thorough description of what that looks like.” Q “What is NARA?” A “The National Association for Regulatory Administration.” Q “What is the focus of NARA?” A “NARA looks at human service licensing, has a specific focus on child welfare licensing.” Q “And what do NARA standards say with respect to the issue of workload or time measurement studies or licensing --” A “That these must be done. That it is essential that those types of studies be done in order to determine what the staffing levels need to be in order to accomplish the tasks required of licensing inspectors and investigators.” Q “Are you familiar with the Council on Accreditation?” A “I am.” Q “Are you familiar with the Child Welfare League of America?” A “I am.” Q “Did you review those standards or consider those standards in your work?” A “I have, yes.” Q “Did those organizations, professional organizations, speak to the issue of workload and time measurement studies?” A “They do. They speak to the need for an analysis of workload. Again, in terms of determining staffing, it is a critical step to right size an organization, to make sure you have the right number of people doing a task. And not just completing it, but completing it well. That you don’t have enough people just to go and do stuff. So, for example, in the case of an inspector we have to do face-to-face inspections. Rather than call them up, I can send an inspector out and say, ‘Okay, you need to go see them.’ I don’t have -- but because I’m the inspector and the number of staff we have -- I know that we’re short staffed. I don’t have enough time to do everything I’m supposed to do. Now I’ve got to go out here and see these folks so that I don’t show up on, you know, somebody’s report somewhere. But I don’t really have time to do a quality visit, so I go, I talk to you and I say, ‘Is everything taken care of?’ You go, ‘Yeah.’ I’m okay, no more trouble from you from now on, okay. We’ve had this conversation, you understand it’s really important, see you later, and off I go. So you want to be able to not just go and make that face-to-face contact but to make it meaningful. So right sizing is important to know how much time is needed for a person to do the job that they’re expected to do in the manner that they’re expected to do it based on whatever policies and standards there are in place governing that work.” (Chansuthus Direct, 121:6-123:7)</p>
<p>12.03.14 Chansuthus Direct, at 123:18-124:7</p>	<p>Q “Did you seek to determine in your review of CCL and RCCL whether a workload or time measurement study has been performed to determine the number of caseworker, investigator or inspector staff needed to fulfill licensing functions?” A “I did.” Q “What did you determine?” A “What I found is that there really hadn’t been one. There was -- there was an attempt at one I think in 2004. And I used that data, which at the time I didn’t realize -- I used the data from that report to look at what case loads -- sorry, what workload actually was like, how many days were required for an inspector to actually complete the task given the current number of inspectors, investigators; how long would it take for them -- you put them all together, so I didn’t separate them. You must take them all, all the caseworker they have.” (Chansuthus Direct, 123:18-124:7)</p>

<p>12.03.14 Chansuthus Direct, at 126:7-127:15</p>	<p>Q “What did you later determine during your second review of CCL with respect to whether workload or time measurement studies had been performed by DFPS on a CCL RCCL function?” A “They had not actually done a workload analysis and that that –“ Q “Is that significant to you?” A “And that the data that was in the report that I had was data that was questionable. I mean they really hadn’t done a thorough study.” Q “Is the absence of a workload time measurement study here significant to you?” A “Yes.” Q “Why?” A “Well, given the deficiencies, the practice -- the performance deficiencies that PMU identified in their reports and the continuing declining trend in the staffing pattern, it would seem to me that it is critical in terms of understanding whether staffing is part of the issue contributing to these performance deficiencies that you would want to do in order to know do we need more staff, how many more staff do we need, what will it take for us to be staffed in a manner that allows us to do the work that we need to do and do it well. In order to know that a workload study is vital. (Pause) What I was just going to say is that not only did I not find evidence of a workload study but what I remember from -- what I became aware of actually recently is that – and this was after my report so I don't know. But what I learned is that no actual workload study of residential child care licensing has even been planned. I think there is one in the works for daycare, but there isn’t one for residential child care licensing right now in the works being planned.” (Chansuthus Direct, 126:7-127:15)</p>
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Item 16: CCL Investigations, Inspections, and Licensing: (2) The Special Master shall recommend the point at which caseloads are manageable for investigators and inspectors. What is manageable is to be understood as the level at which investigators and inspectors are able to perform their basic functions. In other words, a manageable caseload is the level at which children are free from an unreasonable risk of harm.

There is extensive evidentiary support in the record for the various reforms recommended by the Special Masters to address this Item in the Court’s Memorandum Opinion and Verdict including, but not limited to, the following:

Document	Citation
<p>PX640, DFPS, “Monthly Dashboard (April 2013 Report – data through March 2014),” at Row 72</p>	<p>“Average Monthly Residential Caseload per Worker (RCCL): <i>FY12</i> 9.6[;] <i>FY13</i> 9.2[;] <i>FY14</i> 18.0[;] % Change from <i>FY13</i> to <i>FY14</i> 95.8%[;] <i>April</i> 9.2[;] <i>May</i> 9.5[;] <i>June</i> 9.6[;] <i>July</i> 9.6[;] <i>August</i> 9.8[;] <i>Sep</i> 18.2[;] <i>Oct</i> 18.0[;] <i>Nov</i> 17.9[;] <i>Dec</i> 17.8[;] <i>Jan</i> 18.0[;] <i>Feb</i> 18.2[;] <i>March</i> n/a “ (DFPS, Row 72)</p>
<p>PX898, DFPS, “Proposal for</p>	<p>“RCCL staff experienced a 96% increase in the average monthly caseload between FY’ 13 (9.2) and the first three months of FY’ 14 (18). The increase can be</p>

<p>Exceptional Item Funding Worksheet,” at DFPS008185819</p>	<p>attributed to: 1. an increase in the number of serious incidents in residential child care operations, which has resulted in an increase in investigations for both inspectors and investigators; and 2. a sharp increase in the number of unaccompanied minor children crossing the border, which has created a dramatic increase in the number of licensed operations that serve these children as well as a dramatic increase in the capacity of the licensed operations that serve these children. This increase has drastically affected Regions 10 and 11. A request of additional staff to help these areas is included in the numbers above. There are currently 64 inspectors and 66 investigators. Twenty additional inspectors and 20 additional investigators would allow for the caseload to average out to a more manageable workload, which would help reduce risk to children placed in residential operations and promote staff retention.” (DFPS, DFPS008185819)</p>
<p>PX969, DFPS, “Improving Child and Youth Placement Outcomes: A System Redesign,” at DFPS000632329</p>	<p>“When DFPS initiated the foster care redesign project, it had no preconceived notions of what the model components or implementation strategies should be. To encourage innovation and change of the extremely complex foster care system, DFPS leadership identified only two parameters within which the redesigned system must remain. Those parameters are: Legal oversight and case responsibility (i.e., case management) will remain the role of DFPS. The redesigned foster care system will neither preclude nor require additional funding, with the exception of funding for normal entitlement caseload growth.” (DFPS, DFPS000632329)</p>
<p>PX1117, Greg Cudnik, “IMPACT QA-Open Investigations Analysis Eastern District (RC),” at DFPS007913947</p>	<p>“What are the major factors contributing to cases that are open beyond 45 days that do not have or do not qualify for extensions? (Give a general overview because the details are on the spreadsheet you submit.) The workers feel overwhelmed and unable to complete timely. The case numbers ebb and flow, causing months or weeks when the caseload jumps substantially. Region 4 has been down an investigator for several months which means Region 6 workers have had to drive to Tyler (4 hours each way) to work cases on a regular basis.” (Cudnik, DFPS007913947)</p>
<p>PX2115, Council on Accreditation for Child Protective Services, “(FP) PA-CPS 14.05,” at 40</p>	<p>“Each agency should determine what caseload size is appropriate, and reviewers will evaluate: (1) whether the agency’s designated caseload size reflects a manageable workload, and (2) whether the agency maintains caseloads of the size it deemed appropriate.” (Council on Accreditation for Child Protective Services, 40)</p>
<p>DX119, Sunset Advisory Commission, “Staff Report</p>	<p>“Even once DFPS hires caseworkers, one out of every six leaves within the first six months of employment – not long enough to help the agency reduce caseloads and provide relief for other caseworkers, since training alone lasts three months.” (Sunset Advisory Commission, DFPS009006938)</p>

with Commission Decisions,” at DFPS009006938	
12.02.14 Morris Cross, at 13:17-21	Q “And you were asking for more money because there was a significant and dramatic increase in caseload wasn't there?” A “We were asking for more resources and additional staff to do many things, but that is one of the things that I believe we noted in the exceptional item.” (Morris Cross, 13:17-21)
12.02.14 Morris Cross, at 14:2-16:19	Q ““Staff experienced a 96 percent increase – ‘ This is in March of this year, 2014. ‘-- in the average monthly caseload between fiscal year 2013 and the first three months of fiscal year 2014.’ That's a true statement, isn't it? Ninety six percent increase in the caseload?” A “Actually, that 96 percent increase was actually an error that we noted later.” Q “Okay. So it's not a true statement.” A “There was a change --” Q “What is the increase?” A “I want to say that the average monthly caseload right now is right around 18 or 19 cases per worker in this division.” Q “Well, I see the numbers there that say the caseload went from 9.2 to 18, right?” A “That's correct.” Q “That would be --” THE COURT: “So is that whole sentence wrong?” A “Yes, the whole sentence is incorrect. And the reason -- there is actually a reason for that, your Honor.” THE COURT: “What's the reason?” A “Well, what happened during the year that I was coming up to speed with it in Child Care Licensing, there was actually a change in how that measure was calculated. And that change in the calculation measure, it escaped me. I did not catch that, so it made it into this first draft as being a 96 percent increase, from 9.2 to 18. In specific, basically we've taken the average monthly case load -- this was for all staff together.” THE COURT: “Uh-huh.” A “And, as it has been explained to me, what we did was -- or, the caseload is now calculated, broken out for inspectors and investigators.” BY MR. YETTER: Q “Okay. So you're now saying that you're breaking out the caseload from inspectors to investigators in 2014, right?” A “Correct.” Q “And so that caseload should go down, right?” A “Well, the caseload for investigators still remains at around 18 to 19 percent, if I recall.” Q “So if I can -- You're a numbers guy?” A “Uh-huh.” Q “But if you're telling me that the caseload, combined, in 2013 is nine, that's nine cases per investigator or inspector, right? True?” A “True.” Q “And then in 2014 it's double and you're breaking them apart; that math doesn't work.” A “No, it doesn't.” Q “Okay. Now, another thing that kind of makes me wonder about what you just said is that not only did you say that there had been this big increase, but you gave two reasons for the big increase, didn't you?” A “Yes, we did, in this draft.” Q “So if the first sentence is wrong, is number one and number two wrong too?” A “Well, I would say that when we say the first sentence is an increase and then the number of serious incidents in Residential Child Care Operations that I think would be one of the things that would be attributable, or would attribute to an increase in caseloads if we saw it.” Q “Okay. Is number one --” A “And we did, in fact, see --” Q “-- that you've got listed there; is it accurate?” THE COURT: “He just said is that true

	<p>or not true; number one?" Q "Is it true or not true?" A "Yes, it is true." (Morris Cross, 14:2-16:19)</p>
<p>12.02.14 Morris Cross, at 21:1-23:10</p>	<p>Q "Well, if you've got, combined, nine for investigators and inspectors, and then you break out investigators and it goes to 18, how many do inspectors have?" A "Well, part of the reason behind the calculation, if you look at the calculation, it works like this. We don't just take caseloads, the total number of caseload, and then divide it by the number of staff that we have. So there are differences there in the staff case assignable. For instance, your Honor, if we have a brand new caseworker who has not completed their basic skills development; if they have not been there for 12 months or longer, they're not assignable a case. And I believe if you'll look at our FY14 you'll notice that -- and you may not be aware of these numbers, but we had, you know, over 25-26 new hires in that fiscal year alone. Also, if someone has completed their basic skills development course but have been there for, I believe, six months or less, then they would only be assigned -- or, only half of that number of those investigators would be included in the calculation. Once someone is fully case assignable, that's when the full weight of that worker is included in the calculation. So we, I believe, have different staff and different levels of being case assignable between inspectors and investigators. And that's the way I understand the case measure to be different between 9.2 to 18 from one fiscal year to the other." Q "Okay. I'm sorry. I tried to follow you." A "And I'm sorry I haven't done the numbers myself and calculated it, but --" Q "Yeah. Yeah. So, what is the caseload for inspectors --" A "I understand --" Q "-- in 2014?" A "I understand the caseload for inspectors to be just under that 18 mark." Q "For inspectors?" A "For inspectors, it's not 18. It's less." Q "And for investigators what is it?" A "For investigators, it's around 18 or 19." Q "And for inspectors what is it?" A "For inspectors it's less than that." Q "Like what is it?" A "I can't recall the number right off hand, but I think for fiscal year 14 it may have been in the range of about 16." Q "Okay." A "I'm sorry, I can't recall that right now." Q "So you had a document that you guys created about nine months ago and you said 'in fiscal year 2013 the blended average caseload for inspectors and investigators was 9.2,' right?" A "That's the number that was, you know, presented --" Q "That's what's in your document and that's what you're saying?" A "-- on the dashboard that we used." Q "Okay. And now you're saying in 2014 the inspector caseload is 18 and the -- I'm sorry, the investigator caseload is 18 and the inspector caseload is 16?" A "For FY14." Q "How in the world do you get a combined caseload of nine unless the caseloads went up?" A "I apologize. I didn't crunch those numbers, so I cannot answer that question for you." (Morris Cross, 21:1-23:10)</p>
<p>12.03.14 Virgil Direct, at 199:25- 200:17</p>	<p>Q "Did this turnover in caseworkers have any effect on you?" A "Yes" Q "What? What was that?" A "A lot -- a lot of times whenever I had issues in some of the homes I didn't know who to go to, I didn't know who to trust and so I just -- most of the time I kept my mouth shut." Q "And was one of the things that you kept your mouth shut about being sexually abused by one of your foster families?" A "I</p>

	<p>tried to report it and the person that dropped me off at the home was my caseworker at the time, she handed me a number and said "if anything happens, call." I tried to call, I tried to report it and it was like, "okay, we'll investigate it" and then nothing ever happened." Q "Do you know whether it was ever investigated?" A "No." Q "Did the caseworker come visit you at that particular placement?" A "No." (Virgil Direct, 199:25- 200:17)</p>
<p>PX2021, Daryl Kennedy Chansuthus, "DFPS Residential Child Care Licensing: A Second Review," at 4-5</p>	<p>"Each of these systems has its own set of characteristics for effective and efficient performance, and the optimal functioning of all four is needed to assure child safety, health, and well-being. The system of focus here is the general management and administration system, for it is within this system that the core structure of an effective regulatory system is developed. Two structural characteristics of the RCCL management and administration system that are of particular concern as they relate to child safety, health, and well-being will be highlighted here: continuous quality improvement and staffing. In high-performance organizations, these management system structures involve: [t]he use of a formal continuous quality improvement system with clear performance benchmarks that are monitored systematically through planned information gathering methods and necessary follow-up actions; [and] [t]he development and implementation of a staffing plan that takes into account effective workloads and supervisory/managerial span of control." (Chansuthus, 4-5)</p>
<p>PX2021, Daryl Kennedy Chansuthus, "DFPS Residential Child Care Licensing: A Second Review," at 19</p>	<p>"In addition to the lack of a robust CQI system within CCL that strengthens RCCL's ability to ensure the safety of children placed in licensed operations, RCCL also lacks a staffing plan that takes into account workloads that support quality practice. As I indicated in my 2012 report, an analysis using 2004 RCCL workload data¹¹⁴ showed that RCCL workers (inspectors and investigators) in Region 6 would have needed a 26-day work month in 2011 to complete all of their tasks, and workers in Region 3 would have needed an impossible 34-day month to complete their tasks. Since the time of my last report, the amount of necessary licensing work appears to have remained relatively constant, while the number of investigators and inspectors available to do this work has decreased significantly." (Chansuthus, 19)</p>
<p>PX2021, Daryl Kennedy Chansuthus, "DFPS Residential Child Care Licensing: A Second Review," at 21</p>	<p>"In early 2014, a 'Proposal for Exceptional Item Funding' was prepared, acknowledging the '96% increase in the average monthly caseload between FY'13 (9.2) and the first three months of FY'14 (18).' This increase is attributed in part to 'an increase in the number of serious incidents in residential child care operations, which has resulted in an increase in investigations for both inspectors and investigators. . . .' As this request acknowledged, 'there has been a lot of scrutiny on child deaths and serious incidents in residential child care. This scrutiny has led to questions relating to the quality of oversight RCCL is providing to licensed operations.' This same request further acknowledged the need for RCCL to 'have more opportunity to review operations for compliance with</p>

	<p>minimum standards, and to reduce risk to children in residential care.” (Chansuthus, 21)</p>
<p>PX2021, Daryl Kennedy Chansuthus, “DFPS Residential Child Care Licensing: A Second Review,” at 22</p>	<p>“Notwithstanding the acute needs reflected in this Proposal for Exceptional Item Funding, neither RCCL nor DFPS as a whole has conducted a time measurement study to determine the actual number of staff required to perform the work. While there are plans in place to undertake a new time measurement study, Ms. Shaw did not know if a date was set for that review. Thus, RCCL has no management basis for determining exactly what its true needs are and cannot be certain it is addressing those needs in a manner that will support quality performance.” (Chansuthus, 22)</p>
<p>PX2114, Child Welfare League of America, “Standards of Excellence for Services for Abused or Neglected Children and their Families,” at §5.9, 137.</p>	<p>“In developing agency workload standards, the agency should consider: [t]he specific assigned functions and the time required for each task (e.g. intake, assessment/investigation, placement services, court activities, community development, provision of services); [t]he competencies needed for each social work function (knowledge, skills, experience); [t]he time required for travel and other necessary but noncasework tasks; [s]tandards of sound practice; [t]he availability of paraprofessionals and professionals from other services to help with routine activities (e.g. foster families, in-home aides); [t]he intensity of services that the agency and community considers appropriate; [t]he number of other agencies, individuals, or services involved with the family and the amount of time needed to communicate effectively with other community partners; [t]he amount of time needed for community outreach or other activities not tied to a specific family; and [t]he amount of time allocated for activities such as staff meetings, training and development, administrative functions, and personal leave. Caseload Standards[:] [e]very agency should conduct a workload analysis to determine the appropriate workload standards for its child protective services staff.” (Child Welfare League of America, §5.9, 137)</p>
<p>PX2115, Council on Accreditation for Child Protective Services, “(FP) PA-CPS 14.05,” at §14.05, 40-41</p>	<p>“Each agency should determine what caseload size is appropriate, and reviewers will evaluate: (1) whether the agency’s designated caseload size reflects a manageable workload, and (2) whether the agency maintains caseloads of the size it deemed appropriate.” (COA Standards for Child Protective Services §14.05, 40-41)</p>
<p>12.03.14 Chansuthus Direct, at 119:7 – 120:13</p>	<p>Q – “[J]ust focusing on that topic, are you familiar, Ms. Chansuthus, with the notion of a workload or time measurement study?” A “I am.” Q “What is such a study?” A “When you do a workload study, you are looking at a number of different factors. This talks about RCCL case load, which I find a little confusing. I think more appropriately it should be workload. And workload includes not just as with investigators cases you might be working, but it looks at what tasks you</p>

	<p>are expected to perform, how much time is required for each task, the actual completion of the task, how much time is required to prepare for that task, how much time is needed to report on that task, how much time if you're needing to travel to places, how much time is required for travel, how much time is required to conduct interviews if those are part 23 of the tasks that you have to do, how many different people you're expected to do and what time generally is involved in that. So when you're doing a work analysis, a workload analysis, you are breaking down the job itself into its component parts. So when you're doing a work analysis, a workload analysis, you are breaking down the job itself into its component parts." Q "And why is that done?" A "Because that gives you a true picture of how much time is -- and effort is required to do the tasks required for a specific position and to allow you to know -- okay, given that this is how much time is required to complete these tasks, how many staff do we need to have in order to handle the work that we have, given the number of licensed residential operations we are expected to monitor in the course of a year and the number of children placed in those operations whose safety and well-being we're responsible for." (Chansuthus Direct, 119:7-120:13)</p>
<p>12.03.14 Chansuthus Direct, at 121: 6- 122:13</p>	<p>Q "Ms. Chansuthus, are you familiar with any professional standard that speaks to the issue of workload or time measurement studies?" A "I am." Q "Can you identify such standards?" A "NARA provides a very thorough description of what that looks like." Q "What is NARA?" A "The National Association for Regulatory Administration." Q "What is the focus of NARA?" A "NARA looks at human service licensing, has a specific focus on child welfare licensing." Q "And what do NARA standards say with respect to the issue of workload or time measurement studies or licensing --" A "That these must be done. That it is essential that those types of studies be done in order to determine what the staffing levels need to be in order to accomplish the tasks required of licensing inspectors and investigators." Q "Are you familiar with the Council on Accreditation?" A "I am." Q "Are you familiar with the Child Welfare League of America?" A "I am." Q "Did you review those standards or consider those standards in your work?" A "I have, yes." Q "Did those organizations, professional organizations, speak to the issue of workload and time measurement studies?" A "They do. They speak to the need for an analysis of workload. Again, in terms of determining staffing, it is a critical step to right size an organization, to make sure you have the right number of people doing a task. And not just completing it, but completing it well. That you don't have enough people just to go and do stuff." (Chansuthus Direct, 121:6-122:13)</p>
<p>12.03.14 Chansuthus Direct, at 123:18- 124:7</p>	<p>Q "Did you seek to determine in your review of CCL and RCCL whether a workload or time measurement study has been performed to determine the number of caseworker, investigator or inspector staff needed to fulfill licensing functions?" A "I did." Q "What did you determine?" A "What I found is that there really hadn't been one. There was -- there was an attempt at one I think in 2004. And I used that data, which at the time I didn't realize -- I used the data from that</p>

	<p>report to look at what case loads -- sorry, what workload actually was like, how many days were required for an inspector to actually complete the task given the current number of inspectors, investigators; how long would it take for them -- you put them all together, so I didn't separate them. You must take them all, all the caseworker they have." (Chansuthus Direct, 123:18-124:7)</p>
<p>12.02.14 Morris Direct, at 65:11-66:5</p>	<p>Q "Now, one of the things that you've never done is try to figure out, on a regular basis, how much work your inspectors and investigators actually can handle during the normal work week, have you?" A "We have not yet undertaken a work measurement study if that's what you're referring to." Q "I am. You don't monitor workload data at all do you?" A "I do not have that data." Q "You don't have any workload targets at all do you?" A "I don't have a workload target, but we do have a work measurement study that is upcoming, and Licensing will be a part of that." Q "You don't have any formal system for flagging workloads that are too high do you?" A "No." Q "You don't have any formal system for flagging workloads that are too high do you?" A "No." Q "You have not asked for a workload study; you, Mr. Morris, has not asked for?" A "I have asked for a workload study within Child Care Licensing and we will be up next after APS, Adult Protective Services." (Morris Direct, 65:11-66:5)</p>
<p>12.02.14 Morris Direct, at 68:9-19</p>	<p>Q "I think what you said is that you have not sought for a work measurement study to be a priority." A "I have not asked for a specific work measurement study to be done just on Child Care Licensing as an independent effort. Let's be -- I want to be clear." A "Okay." Q "I think what you said is that you have not sought for a work measurement study to be a priority." A "I have not asked for a specific work measurement study to be done just on Child Care Licensing as an independent effort." Q "Let's be -- I want to be clear." A "Okay." Q "You have not asked for a work study to be any sort of priority for your group have you?" A "I have not asked for an independent work measurement study separate from the effort that's going to happen with all of Family and Protective Services." (Morris Direct, 68:9-19)</p>
<p>PX2021, Daryl Kennedy Chansuthus, "DFPS Residential Child Care Licensing: A Second Review," at 21, Table 1.</p>	<p>"Despite the broad and expanding scope of this critical regulatory work, RCCLs caseworker FTEs have steadily decreased over the last several years, as Table 1 depicts." (The number of filled RCCL Caseworker Positions has declined from 136 in 2009 to 89 as of March 2014. During this same time period, the foster care population increased from 15,932 in 2009 to 16,676 in 2013, and the number of licensed residential operations remained relatively constant – 10,361 in 2009 compared to 10,459 in 2012 and 10,285 in 2013.) (PX2021, 21)</p>
<p>12.03.14 Chansuthus</p>	<p>THE COURT: "I know I'm interrupting you, but the 2011/2012, did you testify that the workload was remaining steady or increasing and the staff was</p>

Direct, at 93:8-21	decreasing?" A "That's right." THE COURT: "Okay." A "In --" THE COURT: "Now go to the second study." A "Yes, ma'am. In the second report I was asked to follow-up on the findings of my first report, so I looked at staffing first. And what I found was that staffing -- the number of staff had decreased further. I think it had dropped -- I don't have the numbers right in front of me -- but from something like a hundred and something to maybe 89." (12.03.14 Chansuthus Direct 93:8-21).
12.03.14 Chansuthus Direct, at 129:14-131:10	Q "Can we go back now to Page 20 of Exhibit 2021. Ms. Chansuthus, you've just indicated that the sample drawn by PMU in the UTD report was for a period August 1, 2012 through July 31, 2013, yes?" A "That's right." Q "The cases reviewed were investigated during that timeframe?" A "That's right." Q "Looking back at your chart and your report, within that timeframe RCCL caseworker FTE --" A "Continued to decline." Q "From 116.4 down to 92.4." A "That's correct." Q "Is that significant to you in assessing staffing levels of RCCL?" A "It is." Q "How so?" A "Again, we see issues related to investigations and the quality of those investigations. Unable to determine dispositions, my experience with those dispositions are that they are -- they are reached after one has thoroughly investigated. They have talked with everyone -- the investigators talk with everyone that he or she needs to talk to, has gone down every avenue. And after doing all of that work is still unable to determine, you know, whether or not the allegation is substantiated or not. And so it's given a UTD disposition. That so many of these, such a large percentage was incorrect suggests that investigators did not have the time that they needed to do the level of investigation required to be able to give a proper disposition. And I mean what I learned further when these results were reviewed, this review was expanded to include sexual assault and neglectful supervision, which I was curious about why that wasn't included to begin with. But the finding showed that many of those that were incorrectly determined were rejected. And my understanding of -- because that confused me. They were rejected. What does that mean they were rejected? And essentially what it meant was that the cases -- the investigations weren't ripe enough for a disposition to have even been made." Q "And how was that significant to you, if at all, in assessing --" A "Children were left at risk." Q "[T]he staffing issue we've spoken about?" A "An investigation was not done in the manner it needed to be in order to determine whether a child was safe or not." (12.03.14 Chansuthus Direct, 129:14-131:10)
12.03.14 Chansuthus Direct, at 118:2-119:2	Q "Now, Ms. Chansuthus, looking again at the column RCCL caseworker FTEs, what that column is showing is that the total number of caseworker positions filled for RCCL from 2009 to 2014 had precipitously dropped from 136 down to 89, yes?" A "Yes." Q "Regardless of what individual case loads were there had been a decline, a significant decline of the number of onboard staff." A "That's right." Q "Was that significant to you given the performance deficiencies you had noted in the PMU reports?" A "Yes, it was." Q "Why so?" A "Well, because they seemed to be understaffed initially. If you look at the reports for 2011 and 2012, they were struggling with follow-ups, they were struggling with conducting thorough risk

	<p>assessments, they were struggling with doing safety plans, they were struggling with completing a number of the tasks that they were charged by their own standards and policies with doing. And when you look at the numbers and you see that there has been a decrease, clearly to me based on my own experience with staffing and staffing patterns and what's required to complete a licensing function, this seemed to be a problem. Staffing seemed to be related to their deficiencies. Their performance deficiencies, let me be clear.” (12.03.14 Chansuthus Direct, 118:2-119:2)</p>
<p>12.03.14 Chansuthus Direct, at 112:22-113:9</p>	<p>Q “What consideration did you give to that decline in the number of RCCL caseworkers in relation to the foster care population and licensed residential operations numbers that you determined?” A “Well, in my first report I talked about when you consider the number of children who are in licensed placements, the number of licensed operations that inspectors are responsible for and the complexity of their tasks that 136 caseworkers to start off with was a very low number to handle that responsibility. If you just look at the per operation or per child ratio, it's -- I'm amazed that they're able to do as much as they do. And I'm not surprised that -- when I looked at this I wasn't surprised at the deficiencies that I was seeing.” (12.03.14 Chasuthus Direct, 112:22-113:9)</p>
<p>12.04.14 V. Miller Direct, at 49:14-50:4</p>	<p>Q “Does the 75-percent error rate that you have learned about in the investigations of this hundred and eleven cases – does it give you confidence or not in the quality of the State of Texas investigations into reports of abuse and maltreatment?” A “Quite frankly, I’m horrified by that data.” Q “Have you ever seen anything similar in your experience with child welfare systems around the country of a sample of investigations for a year and this situation is about 5 to 10 percent sample that came out to be so wrong?” A “No.” Q “Is -- and this may beg the question but is a 75-percent error rate anything close to meeting professional standards?” A “Oh, no. Now, there will be an error rate but what you try to do is control your error rate so that your error rate is not more than, say, 2 to 3 percent and you still have to monitor investigations.” (12.04.14 V. Miller Direct, 49:14-50:4)</p>
<p>12.04.14 V. Miller Direct, at 51:5-9</p>	<p>Q “Dr. Miller, what do you -- do you have -- what conclusions can you draw from a system that has a 75-percent error rate in a sample of their investigations of abuse and neglect?” A “I can’t -- my conclusion would be that that investigative arm simply doesn’t work. It’s broken.” (12.04.14 V. Miller Direct, 51:5-9)</p>
<p>12.04.14 V. Miller Direct, at 44:5-25</p>	<p>Q “Does the work that these investigators do important to running a safe child welfare system?” A “Yes.” Q “And tell us why that is.” A “Well, these are the -- well, it depends on what kind of investigators you’re talking about, the investigators that do initial cases and then you have internal investigators that investigate abuse and neglect allegations within the system.” Q “Let me talk -- let’s talk about the latter group, the group that addresses and investigates claims of abuse and neglect in the child welfare system.” A “Right.” Q “Why are they</p>

	<p>important to keep the system safe for children?" A "Well, you know, what -- as we talked about yesterday, it's our responsibility to give the children something better than what we removed those children from and one of our primary responsibilities is one of safety. And if the child is harmed in the system, we have to know why and if actions -- specific actions need to be taken so that further harm doesn't happen to that child or to other children." (V. Miller Direct, 44:5-25).</p>
<p>12.04.14 V. Miller Direct, at 50:5-11</p>	<p>Q "If you miss instances of actual abuse, what's the consequence to the children involved and to the system?" A "The child is harmed and even more significant, that instance has already happened. That child is hurt but you leave other children vulnerable to subsequent hurt because you haven't addressed the issue. The ill is still there. It's still in the system." (V. Miller Direct, 50:5-11).</p>
<p>12.02.14 Morris Cross, at 28:12-23</p>	<p>Q "Okay. Bottom line is as of March of 2014, you were down to 88.5 full time investigators and inspectors, right?" A "Okay." Q "Okay. So you have the sharp increase in children and you have a steadily dropping load of investigators and inspectors and they've got this really important job to investigate allegations of physical, sexual abuse and neglect, true?" A "True." Q "And they have to make correct decisions; otherwise, victims can be subject to continued risk and perpetrators could be given more opportunities to cause harm, right?" A "Yes[.]" (Morris Cross, 28:12-23).</p>
<p>12.02.14 Morris Direct, at 10:9-12:2</p>	<p>Q "So you can either find there is a reason to believe or you can rule it out. And then there is a third category. And they're both important, obviously, to get right, true?" A "That is correct. You want to make sure you're accurate." Q "And the third category is like the head scratcher, I don't know; which you call unable to determine?" A "Yes. We refer to those as UTD." Q "UTD. And that means you couldn't make a finding because you were unable to gather enough facts; that the investigator and the supervisor of the investigator concluded that there is not a preponderance of the evidence either way to reason to believe or ruled out. You couldn't conclude either way?" A "Correct." Q "Now those are all important because if you make a mistake on a ruled out, when abuse actually did happen, the perpetrator could stay in the -- the child victim could stay in a home where there is a perpetrator where bad things had happened, right?" A "That is a possibility, yes." Q "And when you do this UTD, I don't know, the head scratcher, unable to determine, and you do it wrong, again, if there -- actually something happened, in fact, then a child victim could be at risk in the future?" A "That is correct." Q "These investigations have to be professional, true?" A "That is true." Q "They have to be thorough?" A "We want them to be thorough and accurate." Q "They have to be accurate. Thank you. They have to be reliable, don't they?" A "We need to be able to rely on their work, yes, sir." Q "Because these children, you know, the State is responsible for their physical, emotional, and psychological wellbeing, true?" A "The State is responsible for their wellbeing, yes, sir." Q "Now, if your investigators don't do a good job because they're too busy, that's a bad thing isn't it?" A "If they do a bad job for any reason that's something that we need to look</p>

	into.” Q “I agree with that. And it’s certainly a bad thing if they don’t do a good job, if they don’t make a reliable investigation because they’re too busy, isn’t it? That’s a bad thing?” A “Yes, it would be.” (Morris Direct, 10:9-12:2)
12.10.14 Shaw Cross, at 12:12-15	Q “Now, the reason why you were concerned is incorrect findings could mean children are at risk, because this is physical abuse, this is actual injury to children, isn’t it?” A “That is correct.” (Shaw Cross, 12:12-15).

Item 17: CCL Investigations, Inspections, and Licensing: (3) PMU must conduct case readings to assess RCCL investigations in a manner and at a frequency deemed appropriate by the Special Master. The Special Master will recommend the appropriate method to correct dispositions and order corrective actions when PMU identifies deficiencies.

There is extensive evidentiary support in the record for the various reforms recommended by the Special Masters to address this Item in the Court’s Memorandum Opinion and Verdict including, but not limited to, the following:

Document	Quotes
PX41, 40 Tex. Admin. Code § 745.8405	“The purpose of an investigation is to: (1) Reduce the risk of abuse and neglect to children and to protect them in out-of-home care; and (2) Obtain sufficient information to make a fair, accurate, and impartial decision regarding the report, allegation, situation, and/or conditions.” (§ 745.8405)
PX902, DFPS Budget, “Proposal for Exceptional Item Funding Worksheet: Legislative Appropriate Request 2016-2017,” at DFPS7696689-90	“We are requesting the following additional staff for the CCL/RCCL program to proactively review an operation’s compliance with background check requirements: [f]our staff [and] [o]ne supervisor[.] A recent Title IV-E audit revealed a number of error related to background checks that indicated risk to children and resulted in fines levied against the state. Additional staff solely dedicated to evaluating operations’ compliance with background check rules, will be able to reduced deficiencies and errors related to background checks by randomly auditing a sample of operations each month in order to evaluate compliance with background check rules. The audit would reduce risk to children by: [i]dentifying background check errors and giving the operation an opportunity to correct the deficiencies sooner than waiting for the inspector to conduct the next monitoring inspection; [f]ollowing up on pending FBI checks in the CLASS system; and [i]dentifying persons affiliated with the operation who are coming due for their renewal background check and providing the list to the operation. The supervisor position would oversee the work of the four staff and serve as the background check liaison between the centralized background check unit (CBCU) and CCL. Currently CCL has a member for the policy team to help with background check issues, but this person cannot be devoted solely to background checks and the CBCU frequently has to work

	<p>with numerous people in CCL to accomplish their goals or get answers to their questions. Having a liaison who would be an expert in CCL on background check issues would streamline communications and decision making between CCL and the CBCU. In addition, these staff could answer background check questions for CCL staff instead of having to contact the CBCU.” (DFPS, DFPS7696689-90)</p>
<p>PX1091, William Wright, “Performance Management Unit Self and Needs Assessment,” at DFPS007930269</p>	<p>“If you could recommend changes to the function of PMU, what would those include? Conduct random, ongoing case readings without regard to geographic area, program type, or inspection type, in order to gain a true perspective of State-wide quality. This would help determine trends other than those continuously found in the Risk Analyses case readings, which relate only to those operations which are already considered high-risk. This would also speak to our desire to be a proactive Unit, finding trends and focusing on improvement before a specific unit, region, or district becomes flagged. Conduct recurring case readings in future time-frames, perhaps six months or one year after the initial read and subsequent periods thereafter. Although targeted case readings are extremely beneficial, the true measure of improvement would be found in a duplicate case reading being conducted after recommendations are made and improvements implemented.” (Wright, DFPS007930269)</p>
<p>PX1129, Child Care Licensing Performance Management, “Residential Care Physical Abuse Investigations Focus: Unable to Determine Dispositions” at DFPS007696332</p>	<p>“Recommendations: 1. Based on the 64.6% of incorrect UTD findings, it is recommended that Program Managers immediately implement a procedure to have a secondary supervisor approve all UTD investigations. This is to provide another supervisor’s view of the disposition, and to help reduce the frequency of incorrect UTD disposition. The investigator should document the secondary approval as a contact in the investigation Contact List. 2. Because only specific regions have high percentages of supervisors approving the incorrect findings, it is recommended the Lead Investigation Analyst (LIR,) in conjunctions with the CCI trainers, review the Child Care Investigation (CCI) training curriculum for further possibility of providing additional trainings relating to UTD findings for those regions with high percentage of incorrect approval. On average, RC supervisors are case reading about 45 Abuse/Neglect cases every month. It is recommended PMU Case Analysts and regional Risk Analysts conduct 50 percent Read Behinds of those supervisory case readings relating to PHAB allegations, starting in March, 2014. This is another avenue to explore further whether supervisors are correctly assessing Abuse/Neglect investigations through their case readings.” (Child Care Licensing Performance Management, DFPS007696332)</p>
<p>PX1145 Performance Management Unit,</p>	<p>“Recommendation: (12/4/2013) Suggestions for Improving Investigations: [e]nsure this report is filtered down to management and field staff with an emphasis on areas of concern[;] [d]iscuss specific areas of concern at the next</p>

<p>“PMU Recommendation Tracking Log: CCL Internal and External Recommendations FY 2014,” at 1</p>	<p>Leadership Meeting[;] [f]or districts failing below 95% compliance in a specific area Directors and Managers should consider developing a plan for improving compliance[;] [p]otential training for staff via SO or a face to face refresher training including: [e]lements of thorough investigation; and [q]uality documentation for investigations.” (Performance Management Unit, 1)</p>
<p>PX2021, Daryl Kennedy Chansuthus, “DFPS Residential Child Care Licensing: A Second Review,” at 9</p>	<p>“Mr. Wright testified that over the last two years, the number of targeted case readings performed by PMU declined from about six to eight case readings per year to about four per year.” (Chansuthus, 9)</p>
<p>PX2021, Daryl Kennedy Chansuthus, “DFPS Residential Child Care Licensing: A Second Review,” at 10</p>	<p>“Specifically, in response to the question ‘If you could recommend changes to the function of PMU, what would those include,’ Mr. Wright identified numerous items including: [c]onduct recurring case readings in future time-frames, perhaps six months or one year after the initial read and subsequent periods thereafter. Although targeted case readings are extremely beneficial, the true measure of improvement would be found in a duplicate. Case reading being conducted after recommendations are made and improvements implemented [...and] [m]ore targeted case readings. When PMU was first formed it was not uncommon to have 3-5 targeted case readings occurring at the same time, some of which were related to the other in terms of impact on improvement. This was on top of the Risk Analyses that were being conducted and monitored to correspond with and supplement the case readings. These actions created a broader picture of quality within CCL than we have now, at least from a PMU perspective.” (Chansuthus, 10)</p>
<p>12.02.14 Morris Direct, at 8: 7-16</p>	<p>Q “Okay. So that's -- and that's also under your umbrella, the PMU, the Performance Management Unit. Those are important units aren't they?” A “Yes, they are.” Q “Okay. Now, the -- I'm going to just call it the Licensing group, this Residential Licensing group -- Residential Child Care Licensing group is important because these inspectors are supposed to check and accurately investigate instances of alleged abuse or neglect of children, right?” A “Correct. And care situations, yes.” (Morris Direct, 8:7-16)</p>
<p>12.02.14 Morris Direct, at 11:15-12:25</p>	<p>Q “Because these children, you know, the State is responsible for their physical, emotional, and psychological well being, true?” A “The State is responsible for their well being, yes, sir.” Q “Now, if your investigators don't do a good job because they're too busy, that's a bad thing isn't it?” A “If they do a bad job for any reason that's something that we need to look into.” Q “I agree with that. And it's certainly a bad thing if they don't do a good job, if</p>

	<p>they don't make a reliable investigation because they're too busy, isn't it? That's a bad thing?" A "Yes, it would be." Q "Now, in the last several years, the number of children that your investigative group is responsible for, your investigators and your inspectors, has gone up hasn't it?" A "I believe it has, yes." Q "It has gone up because the State is growing and because -- actually, this is one of the things, your Honor, that you brought up yesterday, there are undocumented immigrants coming into Texas, true?" A "That is one of the populations that we deal with. Specifically, I think you may be referring to ORR, or basically undocumented children who may be coming into the country without being accompanied by an adult." Q "Sure. In fact, you have found this year, in 2014, there was a sharp increase in the number of unaccompanied minor children crossing the border and entering the Texas foster care system, wasn't there?" A "That is correct. Yes, sir." Q "And when you made a request for more funding -- and I'm looking at Plaintiffs' Exhibit 898. It's in evidence, your Honor. It hasn't been objected to. Let me just first go to the top. Let's blow up the top. This is a proposal. You're asking for more money, are you not, sir?" A "Yes, we are." (Morris Direct, 11:15-12:25)</p>
<p>12.02.14 Morris Direct, at 34:2-25</p>	<p>Q "Okay. So, you have -- I'm not going to go through all of these for the Court. The Court will have this document to review. But basically they went through all of these and they found -- let's go down to the sixth bullet down -- 11 of the 31 incorrect findings should have been reason to believe, right?" A "Correct." Q "That's 35 percent of the incorrect findings should have been reason to believe. That means there was a preponderance of the evidence that indicated that physical abuse occurred, right?" A "Correct." Q "Now, this sample was done long after the fact, wasn't it?" A "About a year after the --" Q "I say 'long.' It was done after the fact, wasn't it?" A "I believe it was about a year after the fact." Q "Okay. So, investigations have to be timely, don't they; right?" A "Yes, they do. Q "Because if you have physical abuse happening in a home to a child that's under the legal custody of the State of Texas and you don't figure out for a year whether that physical abuse happened, that child has 12 months of being at risk, doesn't he or she?" A "Correct." (Morris Direct, 34:2-25)</p>
<p>12.02.14 Morris Direct, at 45:18-46:6</p>	<p>Q "Have you done a broader study now; have you commissioned a broader study, because you just got a sample of 111 instances, 75 percent of which were wrong? Have you commissioned a broad study of the investigative results in your department to determine if this astounding inaccuracy is endemic in your group?" A "We have asked for additional work to be done. And one of the things, if you'll --" Q "Let me stop you there. When is it going to be done? It's now December and this was January." A "Right." Q "Has it been done? A "Follow-up report -- or, follow-up reviews of cases were being conducted and they're almost complete." (Morris Direct, 45:18-46:6)</p>

12.03.14 Chansuthus Direct, at 97:13-98:7	<p>Q “And you indicated that at the time of that initial report you had identified certain deficiencies within RCCL practice?” A “Yes.” Q “What deficiencies did you find there? Can you identify a significant example?” A “There were several but initially we found that, for example -- and it's difficult to remember them also the ones that I do recall. For example, follow-ups on deficiencies.” Q “What is a follow-up on a deficiency?” A “Right. That follow-ups were not being done timely, that type of follow-up was an issue and that the quality of follow ups was also found to be problematic.” Q “Can you describe or explain to the Court what a follow-up is?” A “Whenever there is a deficiency, whenever an inspector identifies, or investigator identifies a deficiency in an operation, they set a date by which time the operation is expected to come into compliance. The agency has -- sorry, the inspector has 15 days past that compliance date to follow up to make sure that the deficiency has been addressed, corrected.” (Chansuthus Direct, 97:13-98:7)</p>
12.03.14 Chansuthus Direct, at 118:11-119:2	<p>Q “Was that significant to you given the performance deficiencies you had noted in the PMU reports?” A “Yes, it was.” Q “Why so?” A “Well, because they seemed to be understaffed initially. If you look at the reports for 2011 and 2012, they were struggling with follow-ups, they were struggling with conducting thorough risk assessments, they were struggling with doing safety plans, they were struggling with completing a number of the tasks that they were charged by their own standards and policies with doing. And when you look at the numbers and you see that there has been a decrease, clearly to me based on my own experience with staffing and staffing patterns and what's required to complete a licensing function, this seemed to be a problem. Staffing seemed to be related to their deficiencies. Their performance deficiencies, let me be clear.” (Chansuthus Direct, 118:11-119:2)</p>
12.08.14 Cannata Cross, at 10: 6-12:25	<p>Q “You've never been part of the RCCL have you?” A “That is correct I have not.” Q “Okay. So this part of the department does these what I'm going to call internal investigations. In other words, it's a report of abuse and neglect. You know that those things exist, right, physical abuse, sexual abuse and neglect of a child, true?” A “Yes.” Q “So it's same group of people, same victims, children, right?” A “That is correct.” Q “Same reported harms, physical, sexual abuse, neglect, true?” A “In addition to standards violations.” Q “Okay, fair enough. But I'm focused on reports of abuse.” A “Okay, just -- okay.” Q “And then the people that are reporting it can be the very same type of people that reported it on the front door investigations, nurses, doctors, attorneys ad litem, teachers and the like, true?” (Cannata Cross, 10:6-12:25)</p>
12.08.14 Cannata Cross, at 21:8-11	<p>Q “Thank you. Is there a plan to look into the -- into how reliable the RCCL investigations are under transformation?” A “I am not aware of what they are doing to addressing the statistics that you spoke about earlier.” (Cannata Cross, 21:8-11)</p>

12.08.14 Cannata Cross, at 41:5-42:11	<p>Q “Mr. Cannata, if DFPS took a slice of 111 investigations in 2014 that were done some year before and they turned out to be 75 percent wrong -- and let's just assume, Mr. Cannata, that that's -- it was the same investigators that made -- that ruled out the 90 plus percent of the abuse allegations. You'd expect to see abuse in care numbers very low for the state if they have that big of a error rate wouldn't you?” A “I don't -- I apologize. I do not understand the exact question that I'm supposed to answer.” Q “You know, I think that counsel just ask you that you're going to have a low error rate if you take really good care of children, right?” A “I think he said we'd have a low -- well, I understood the question as we'd have a lower validated --” Q “I think I said error rate.” A “-- abuse rate.” Q “You'd have a lower abuse rate if you took really care of children, right?” A “That is what counsel asked me.” Q “You'd have a lower abuse rate if you didn't have reliable investigations as well. Isn't that true, Mr. Cannata?” A “I can't answer that question. I don't know the answer to that question.” “MR. YETTER: “Thank you. Pass the witness, your Honor.” THE COURT: “Well, hopefully, it would be yes. But you're not saying they're unreliable.” A That's -- yes, your Honor. I'm not sure --” THE COURT: “Sorry.” A “I'm not sure I can qualify the unreliable, your Honor.” (Cannata Cross, 41:5-42:11)</p>
12.08.14 Gilliam Cross, at 52:14-24	<p>Q “Investigations that are sloppy or unreliable, they can leave children in dangerous places can't they?” A “Poor investigations are -- yes, they can.” Q “And, in fact, the way the system is set up in the state of Texas is that an investigation of abuse like this investigation, Plaintiffs' Exhibit 2164, it goes to the RCCL to check into, right?” A “Yes, sir.” Q “And you know that the RCCL overwhelmingly rules out abuse in these investigations doesn't it?” A “I learned that the other day, yes. Yes, sir.” (Gilliam Cross, 52:14-24)</p>
12.08.14 Gilliam Cross, at 54:6-23	<p>Q “Did you know that in the system in our state that when the DFPS -- it's investigating itself, right? Somebody makes a report of abuse at a DFPS authorized facility, then DFPS sends out an investigator to see if DFPS has committed an abuse, right?” A “Well, there's RCCL and then there's DFPS, yes.” Q “But RCCL is part of it, true? It's an internal investigative group, true?” A “RCCL is part of DFPS.” Q “And lo and behold this internal investigative group overwhelmingly finds that nothing happens. And when they do, no one can appeal, right?” A “I have actually shared concerns about RCCL investigations before.” Q “Thank you. Because it is a mess isn't it?” A “Well, no. I'm going to say in one instance I did share concerns about an investigation and the disposition. We did discuss the disposition and it was changed.” (Gilliam Cross, 54:6-23)</p>
12.09.14 Martin Cross, at 4:22-5:11	<p>Q “Now, Ms. Martin, where we were, just to kind of -- I know you probably don't need this, but I'm going to rewind to where we were. We were talking about the study in January 2014 by the PMU out of the Residential Licensing Group that found a very high rate of error in the UTD investigation results. Do</p>

	<p>you know where we're at?" A "Yes, sir." Q "Now, Ms. Martin, you learned about that, I asked you this before, you definitely learned about that in your deposition in September 2014, didn't you?" A "Yes." Q "You said I may have heard about it before. Have you gone back and checked to see whether anybody told you about it before September 2014?" A "No." (Martin Cross, 4:22-5:11)</p>
<p>12.09.14 Reinhardt Cross, at 6:9-21</p>	<p>Q "And it's not targeted to fix issues with residential licensing investigations, is it?" A "Not targeted, but it will likely impact it." Q "And it's not targeted to fix just the general monitoring and licensing procedures of the RCCL, is it?" A "No, sir." Q "And it's not targeted specifically at least to fix foster group homes and how they're regulated in the State of Texas, is it?" A "Not how it's regulated. The performance measure around least restrictive I believe is defined as a foster family home, because in placement, that would be for some children the least restrictive placement." (Reinhardt Cross, 6:9-21)</p>
<p>PX41, 40 Tex. Admin Code § 745.8401</p>	<p>"An authorized representative of Licensing may inspect, investigate, and/or evaluate an operation during the hours of operation." (§ 745.8401)</p>
<p>PX41, 40 Tex. Admin Code § 745.8445</p>	<p>"Once the inspection and/or investigation is complete, we will notify, in writing, the person in charge or director, and the applicant, permit holder, board chair, or designee of the outcome of the inspection and/or investigation. We will also notify whoever made the report." (§ 745.8445)</p>
<p>PX41, 40 Tex. Admin Code § 745.8447</p>	<p>"The notification of the results of the inspection and/or investigation will include: (1) Specifics of the deficiency; (2) Corrections necessary for compliance; (3) Date by which you must comply; and (4) Your right to an administrative review to dispute the findings." (§ 745.8447)</p>
<p>PX1080, Child Care Licensing Performance Unit, "PMU Vision Session July 24 Meeting Notes," at DFPS007681090</p>	<p>"The group discussed current projects/ongoing assignments and made suggestions for improving the quality assurance process and various targeted case readings that may be beneficial to CCL including: [u]tilizing data from casereading surveys to supplement the work of PMU[;] [g]oing back to re-read cases as a follow-up to PMU recommended improvements- are we changing behavior; are we measuring the right things; are we holding ourselves accountable?[:]; [u]tilize the master casereading form (completed by Risk Analysts) to assess inter-rater reliability- identify high risk deficiencies that lead to various recommendations in their analysis[:]; [and] [e]xpand targeted reading[.]" (Child Care Licensing Performance Management Unit, DFPS007681090)</p>

<p>PX1091, William Wright, “Performance Management Unit Self and Needs Assessment,” at DFPS007903265</p>	<p>“The quality of monitoring, regulating, investigating, and all aspects within the laws, standards, and policies that govern Child Care Licensing are ascertained through general casereading, targeted and recurring casereading, requested and random Risk Analyses, routine data reports, and other tools which help us to answer questions...PMU needs to conduct routine targeted casereadings as well as making recommendations for improvement.” (Wright, DFPS007903265)</p>
<p>PX1091, William Wright, “Performance Management Unit Self and Needs Assessment,” at DFPS007903269</p>	<p>“Conduct recurring casereadings in future time-frames, perhaps six months or one year after the initial read and subsequent periods thereafter. Although targeted casereadings are extremely beneficial, the true measure of improvement would be found in a duplicate casereading being conducted after recommendations are made and improvements implemented.” (Wright, DFPS007903269)</p>
<p>PX1129, Child Care Licensing Performance Management Unit, “Residential Care Physical Abuse Investigations Focus: Unable to Determine Dispositions,” at DFPS007696332</p>	<p>“On average, RC supervisors are case reading about 45 Abuse/Neglect cases every month. It is recommended PMU Case Analysts and regional Risk Analysts conduct 50 percent Read Behinds of those supervisory case readings relating to PHAB allegations, starting March 2014. This is another avenue to explore further whether supervisors are correctly assessing Abuse/Neglect investigations through their case readings.” (Child Care Licensing Performance Management Unit, DFPS007696332)</p>
<p>PX1143, Child Care Licensing Performance Management Unit, “Intake Report, Non-Abuse/Neglect & Abuse/Neglect Focus: All Priorities,” at 7</p>	<p>“It is recommended that another similar case reading be conducted six months from now so that a comparison can be made to see if any program improvement has been made.” (Child Care Licensing Performance Management Unit, 7)</p>
<p>PX2021, Daryl Kennedy Chansuthus, “DFPS Residential Child Care Licensing: A Second Review,” at 10</p>	<p>“Mr. Wright identified numerous items including: [c]onduct recurring casereadings in future time-frames, perhaps six months or one year after the initial read and subsequent periods thereafter. Although targeted casereadings are extremely beneficial, the true measure of improvement would be found in a duplicate casereading being conducted after recommendations are made and improvements implemented[.]” (Chansuthus, 10)</p>

<p>PX2021, Daryl Kennedy Chansuthus, “DFPS Residential Child Care Licensing: A Second Review,” at 11-12</p>	<p>“The ‘vision’ for PMU, as outlined in the meeting, was essentially more of the same targeted casereadings, with re-reads recommended as a ‘follow-up to PMU recommended improvements’ and expanded casereads suggested to assess the ‘quality and consistency’ of a variety of activities. Indeed, as acknowledged in Mr. Wright’s Self and Needs Assessment and the subsequent PMU Vision Session, structural features such as accountability mechanisms to ensure that corrective actions are taken, and follow up casereadings to determine performance trends and progress toward improvement, are essential to a functioning quality assurance process... One year after Mr. Wright’s Self and Needs Assessment in July 2013, PMU had not conducted any follow up targeted casereadings to assess the status of issues identified in previous reports. In addition, PMU had only identified two potential ‘recurring’ casereads for the future. Those two ideas are captured only on a dry erase board in Mr. Wright’s office, with no identified timeline for implementation. In effect, CCL management understood in 2013 the need for reform but failed to follow through.” (Chansuthus, 11-12)</p>
<p>PX2021, Daryl Kennedy Chansuthus, “DFPS Residential Child Care Licensing: A Second Review,” at 13</p>	<p>“As reflected in recent targeted casereadings performed by PMU, the findings of which are discussed in more detail below, RCCL is not operating adequately to ensure the safety and wellbeing of children in DFPS conservatorship. Unfortunately, a review of depositions reveals that RCCL has not built the structures necessary to make use of PMU’s targeted casereading reports and recommendations, even when they are generated. First, RCCL has no formal process for identifying issues to be referred to PMU for casereading. Rather, RCCL Director Jean Shaw testified that she refers issues to PMU as they come to her attention. Second, even when issues are referred to PMU and recommendations result, there is no formal process for considering those recommendations and deciding whether to implement them. The CCL managers, including Ms. Shaw, meet weekly as a team and ‘can [go] over any reports generated by PMU at that time. . . .’ No one person is designated to determine whether to implement such recommendations. Moreover, Ms. Shaw acknowledged that there have been times when it was determined that a PMU recommendation was beyond the capabilities of RCCL, either because of staffing or technology, and they were not able to implement the recommendation.” (Chansuthus, 13)</p>
<p>PX2021, Daryl Kennedy Chansuthus, “DFPS Residential Child Care Licensing: A Second Review,” at 18</p>	<p>“These reviews are not always conducted as often as required. In addition, at least with regard to the casereadings, Ms. Shaw acknowledged that ‘we don’t define how many they have to do a month; it’s within that year. So we’ll find in August, which is the end of the year, some supervisors will do a whole lot of casereading to meet their numbers.’ Likewise, for field assessments, Ms. Shaw indicated that supervisors compliance efforts are concentrated at the end of the year. Similarly, Ms. Johnson acknowledged that while it is preferable that feedback be provided throughout the course of a year, “[t]hat doesn’t always happen. Sometimes it’s provided at the end.” Of course, this approach</p>

	<p>to casereading serves to defeat the quality assurance purpose – that is, to provide real-time ongoing feedback to the workforce so that performance improvement can be made timely for the benefit of the children served.” (Chansuthus, 18)</p>
<p>PX2021, Daryl Kennedy Chansuthus, “DFPS Residential Child Care Licensing: A Second Review”, at 28-29</p>	<p>“With regard to the third recommendation, Mr. Wright stated that the plan is for eight Risk Analysts, now housed in PMU, to conduct Read Behinds for a 6 month period and at that point conduct data analysis for all cases read during that period. A report is anticipated in September 2014. It is unclear whether these Read Behinds are intended to occur on a long-term basis, however a single 6 month Read Behind cannot reasonably be expected to identify and address the root problems underlying these incorrect Unable to Determine dispositions. Appropriate quality assurance involves not only initial identification of performance issues and a feedback loop designed to diagnose underlying problems to be addressed—it further involves the development of appropriately targeted corrective actions and the establishment of timetables and measureable performance targets that can be used over time to embed change and validate that the desired results have been achieved.” (Chansuthus, 28-29)</p>
<p>12.03.14 Chansuthus Direct, at 150:2-18</p>	<p>Q “Have you formed an opinion whether the quality assurance function within CCL substantially conforms or departs from the professional standards you’ve identified?” A “It departs from. The Performance Management Unit does not have its own – that I have been able to see, again, doesn’t have its own set of performance indicators linked to specific outcomes that they are doing regular reviews around in order to determine how the Child Care Licensing Division is actually performing on those indicators. Instead, what they do are targeted reviews that are requested by Program Managers or Directors. Targeted reviews are great but there should be a standard set of reviews on critical indicators that are done that you can then look at trends for over time to see how we’re doing in terms of improving or declining around those, what we’ve determined as a unit are our critical performance indicators.” (Chansuthus, 150:2-18)</p>
<p>12.03.14 Chansuthus Cross, at 169:7-10</p>	<p>Q “Are you aware of whether a case read of investigations would give some insight into the causes of harm suffered, or abuse and neglect that’s been suffered?” A “Case reads often do provide that information, yes.” (Chansuthus Cross, 169:7-10)</p>

Item 18: CCL Investigations, Inspections, & Licensing: (4) The Special Master shall recommend provisions to solve RCCL's unwillingness to institute corrective actions against violating facilities.

There is extensive evidentiary support in the record for the various reforms recommended by the Special Masters to address this Item in the Court's Memorandum Opinion and Verdict including, but not limited to, the following:

Document	Quotes
PX1094, Greg Cudnik, "Follow-Up for Deficiencies Report Analysis, Eastern District (RC), Reporting Period: Apr. 2014," at DFPS007914279-80	"Follow Ups Missed by Weight of Deficiency: H: 20 (51%) MH: 9 (23%) M: 7 (18%) ML: 3 (8%) Grand Total: 39" (Cudnik, DFPS007914279-80)
12.02.14 Morris Direct, at 8:17-11:14	Q "Your inspectors are important because they're supposed to ensure that the facilities that these children are in are safe and up to standard, right?" A "Yes." Q "And so these investigations, they cover things like reports of physical abuse?" A "That is correct." Q "Sexual abuse?" A "Yes, sir." Q "Neglect?" A "Neglectful supervision, yes, sir." Q "Yes. And all of these are harmful to the children, are they not?" A "Yes, all three of those things would be harmful to children, yes, sir." Q "Children, whether they are in TMC or PMC, correct?" A "Temporary Managing Conservatorship or Permanent Managing Conservatorship? Yes." Q "And one of the important reasons you do an investigation is that so it doesn't happen again, that alleged abuse, right?" A "That is one of the desired outcomes. I would say, more accurately, you do the investigation to determine the facts and reduce risks to children in care." Q "You can come up -- just generally, in an investigation the way you guys do it, you can come up with at least three outcomes. You can decide that it actually probably happened, true?" A "Yes. I believe you're referring to the reason to believe outcome." Q "I am indeed. And reason to believe is a bad thing. When you have an alleged abuse and you find that there is a reason to believe, the preponderance of the evidence shows that there was abuse, neglect, or exploitation, you've got to do a lot of things to make sure that you investigate it, follow up, fix it, true?" A "Correct." Q "Second thing you could find -- or, among the three things you could find is, well, I don't think -- we don't think anything happened; that the preponderance of the evidence shows that there was no abuse, neglect, or exploitation. You call that ruled out?" A "Yes." Q "So you can either find there is a reason to believe or you can rule it out. And then there

	<p>is a third category. And they're both important, obviously, to get right, true?" A "That is correct. You want to make sure you're accurate." Q "And the third category is like the head scratcher, I don't know; which you call unable to determine?" A "Yes. We refer to those as UTD." Q "UTD. And that means you couldn't make a finding because you were unable to gather enough facts; that the investigator and the supervisor of the investigator concluded that there is not a preponderance of the evidence either way to reason to believe or ruled out. You couldn't conclude either way?" A "Correct." Q "Now those are all important because if you make a mistake on a ruled out, when abuse actually did happen, the perpetrator could stay in the -- the child victim could stay in a home where there is a perpetrator where bad things had happened, right?" A "That is a possibility, yes." Q "And when you do this UTD, I don't know, the head scratcher, unable to determine, and you do it wrong, again, if there -- actually something happened, in fact, then a child victim could be at risk in the future?" A "That is correct." Q "These investigations have to be professional, true?" A "That is true." Q "They have to be thorough?" A "We want them to be thorough and accurate." Q "They have to be accurate. Thank you. They have to be reliable, don't they?" A "We need to be able to rely on their work, yes, sir." (Morris Direct, 8:17-11:14)</p>
12.08.14 Cannata Cross, at 21:8-11	<p>Q "Thank you. Is there a plan to look into the -- into how reliable the RCCL investigations are under transformation?" A "I am not aware of what they are doing to addressing the statistics that you spoke about earlier." (Cannata Cross, 21:8-11)</p>
PX41, 40 Tex. Admin Code § 745.8409	<p>"We may inspect or investigate as often as is necessary to verify compliance with the statutes, rules, and minimum standards or complete the investigation." (Tex. Admin Code § 745.8409)</p>
PX41, 40 Tex. Admin Code § 745.8421	<p>"We will evaluate an anonymous report regarding standard violations that does not contain allegations that the health or safety of children is at risk to discern whether the allegations have a factual basis. To evaluate the report, we may check the operation's compliance history for similar allegations and/or deficiencies, and call the operation and/or collaterals. If there appears to be a factual basis for the allegations, the investigation will proceed to determine the actual findings. If there does not appear to be a factual basis for the allegations, the investigation will not proceed." (Tex. Admin Code § 745.8421)</p>
PX41, 40 Tex. Admin Code § 745.8449	<p>"You must correct all deficiencies and meet all minimum standards within the specified timeframe. To dispute a finding, you may request an administrative review." (Tex. Admin Code § 745.8449)</p>
PX2021, Daryl Kennedy	<p>"These findings raise serious concerns about RCCL investigative practice. They make clear that Abuse and Neglect intakes are too frequently receiving</p>

<p>Chansuthus, “DFPS Residential Child Care Licensing: A Review, Appendix 5,” at pages 28-29</p>	<p>dispositions without adequate investigation. This means that potential adult perpetrators are still in a position to foster children, that alleged child victims or children newly placed into foster homes or facilities subject to these investigations may be exposed to unresolved risk, and that quality foster parents and facility staff may be negatively impacted by a cloud hanging over their head...The systemic issue here cannot be resolved by simply providing another layer of supervisor review. There is a clear indication that investigators and supervisors alike are not consistently applying policy and sound judgment in investigation practice. Many additional systemic factors should be considered including whether workload, turnover, performance evaluations, or the lax oversight of the supervisors are contributing to poor unit performance.” (Chansuthus, 28-29)</p>
<p>12.08.14 Gilliam Cross, at 53:12-18</p>	<p>Q “So did you know that over 95 percent of these reports of abuse from credible people like attorneys ad litem are ruled out as nothing? Did you know that before you came to court?” A “I didn't know it was 95 percent, no.” Q “That's a shockingly high number isn't it?” A “I can't speak to that. I didn't conduct the investigations.” (Gilliam Cross, 53:12-18)</p>
<p>12.12.14 Specia Cross, at 16:3-20</p>	<p>Q “One consequence of a more relaxed regulatory environment and that’s what they were calling Texas, right?” A “Yes.” Q “A relaxed regulatory environment — can be seen in a high incident - incidence of repeat violations that can result when regulated entities perceive that they will be not held accountable for ignoring the state’s requirements. That’s a bad thing, isn’t it, Commissioner?” A “Yes.” Q “One of the things, going down, not to read all but to kind of just cut to the chase -”A “And -”Q “-- one of the things they say here is most of the repeat violations occurred on the highest risk standards. That’s a very bad thing, isn’t it?” A “On mostly associated with criminal history check requirements. That is a problem that we’re addressing in this LAR.” (Specia Cross, 16:3-20)</p>
<p>PX84, DFPS, “Licensing Policy and Procedures Handbook § 4100”</p>	<p>“Licensing staff inspect child-care operations to assess the risk to children in those operations, in accordance with licensing law, administrative rules, and minimum standard rules. To determine an operation’s compliance, Licensing staff: (a) Observe the operation’s performance; (b) Review the records and files maintained by the operation; (c) Cite the operation’s deficiencies, based on the minimum standards; (d) Document observations to capture scope and severity; (e) Consider the risks posed by violations of the minimum standards; (f) Use critical thinking to assess the operation’s overall compliance history; (g) Help the permit holder identify problems that contribute to deficiencies and provide technical assistance to help the permit holder understand how to comply; and (h) Consider all of the relevant information together for a broad perspective. The operation is responsible for developing and implementing plans to correct problems and prevent risk to children. Licensing are not responsible for managing the operation.” (DFPS, § 4100)</p>

12.02.14 Morris Cross, at 41:9-15	THE COURT: “Well, what did you do about those licenses for those places where the abuse was occurring, that you had missed a year earlier?” THE WITNESS: “For all the cases where the UTD was incorrectly found, we actually went out to every one of those and we noted no findings of abuse, no other outcries from children, as I understand it.” (Morris Cross, 41:9-15)
12.10.14 Shaw Redirect, at 49:1-8	THE COURT “Okay, you didn’t believe the lawyer, the eye witness that saw feces on the wall and all these other things? You didn’t believe it?” A “Oh, no, we believed that”— THE COURT “Then why did you rule it out?” A “We have to determine the level of neglect based on a definition. I don’t think it rose to that level of neglect.” (Shaw Redirect, 49:1-8)
12.10.14 Shaw Cross, at 31:2-25	Q “So literally in the last two years 4,000 reports of physical abuse, sexual abuse, and negligent supervision have been ruled out by your group, Residential Licensing, true?” A “Close to 4,000.” Q “Close to 4,000. Now, you did a memo, you guys did -- you did a memo and you had some meetings, didn't you?” A “Related to?” Q “Related to this terrible revelation that you found, this error rate.” A “True.” Q “But all of the reports in the past, you’re not even looking in that direction, are you?” A “We looked at the UTDs.” Q “But all the other reports, the ruled out, you're not even looking in that direction, are you?” A “No.” Q “And all of the children that are involved in those almost 4,000 investigations that you ruled out, you're not looking at them either, are you? From those investigations.” A “I’m not sure what you mean by looking at them.” Q “You’re not following up with the children that were in those ruled out investigations, are you?” A “No, we’re not doing additional checks, no.” (Shaw Cross, 31:2-25)
12.03.14 Chansuthus Direct 103:7-104:8	Q “Well, how does that work? If an investigator and an inspector finds a deficiency at a private provider location, a placement, and that's cited then” – A “And it's a deficiency that presents a risk of harm to a child, then the expectation is that there will be -- there will be corrective action taken by the date that the inspector or investigator determines, provides; and that there will be follow-up within 15 days to assure that that corrective action was taken in order to minimize that potential risk of harm to the child.” Q “Based on your experience in licensing and monitoring of private providers, are these sorts of performance in relation to following up on identified deficiencies and placements the kind of thing that can expose children to a risk of harm?” A “Yes.” Q “How so?” A “If we're not -- well, again, if I've identified deficiencies and I have asked that corrective action be taken in order to -- the deficiencies -- particularly if there are deficiencies that relate to -- that could, in fact, cause harm to children placed in that facility or that home, if the corrective actions recommended have not been taken, then the child is still exposed to risk. And the role of licensing is to minimize that risk. I mean that's the point of the inspections is to identify these deficiencies that could potentially cause harm to a child in order to get those addressed as quickly as possible.” (Chansuthus Direct, 103:7-104:8).

<p>12.03.14 Chansuthus Direct, at 100:24-102:21</p>	<p>Q “Ms. Chansuthus, up on the screen here is a PMU, Performance Management Unit, CCL data and trend assessment with the date January 2011. Did you consider that exhibit during your first review?” A “I did.” Q “And we were talking about the issue of follow-up inspections. Can we turn to Page 21? Or excuse me, Page 13 of 36. Ms. Chansuthus, did you give consideration to this portion of Exhibit 1111, the PMU report, in forming your opinions here?” A “I did.” Q “And can you describe for -- can you indicate to the Court what consideration you gave to this portion of the report and why?” A “What I saw was that of the total number of follow-ups reviewed, 35.7 were not completed within the required timeframes. And in 41.5 percent of the cases the type of follow-up chosen was not the best method to reduce risks.” Q “Do you see the highlighted portion, Ms. Chansuthus, under --” A “I do.” Q “That says RC 35.7?” A “That's right.” Q “You understand RC there to mean residential” – A “It's residential child care. That's right.” Q “What does the DC stand for? Daycare.” Q “Okay. So you gave consideration to the numbers with respect to residential – A. Residential, that's right. Q. And those are the placements for children in foster care?” A “That's right. More than 10,000.” Q “What was the significance of these numbers to you?” A “Well, the follow-up was intended to determine whether or not the corrective action recommended had actually been implemented. If follow-up isn't conducted, then there's no way to know whether that corrective action was taken and whether or not children are still at risk. And the type of follow-up chosen was not the best method to reduce risks in the case of health -- and they focused on the -- the focus here was in the case of health and safety related issues where actually face-to-face inspections are the preferred method. You want to make sure that corrective action has been taken and that the child is no longer at risk; there is no further risk to the child. In some cases they found that these follow-ups when they were done were done by e-mail or phone call.” (Chansuthus Direct, 100:24-102:21)</p>
<p>12.02.14 Morris Cross, at 90:13- 91:1</p>	<p>Q “One more category of inspections, and this is follow-ups. You know what follow-ups are, to make sure an operation is in compliance with the standard that they have been deficient on?” A “We follow up on deficiencies to see if they've been corrected.” Q “Now, it's obviously really important to find facilities that have problems and deficiencies, isn't it?” A “Yes, it is.” Q “And if you tell them to fix it, that's important too, isn't it?” A “Correct.” Q “But if you don't follow up, you're going to have problems aren't you?” A “Yes” (Morris Cross, 90:13-91:1)</p>
<p>12.02.14 Morris Cross, at 70:25- 71:4</p>	<p>Q “So, investigations have to be timely to be effective, don't they?” A “Investigations should be timely, yes.” Q “And follow-ups on investigations should be timely?” A “It is best when those follow-ups are timely, yes.” (Morris Cross, 70:25-71:4)</p>
<p>12.02.14 Morris Cross, at 91:7-11</p>	<p>Q “And you don't -- a substantial portion of your follow-ups are not timely are they?” A “I'm not sure what that number is. The number of follow-ups is one of</p>

	the percentages or performance measures that is used by our directors in the field to follow up on.” (Morris Cross, 91:7-11)
12.02.14 Morris Cross, at 93:1-21	Q “And the last topic. The PMU” A “Well, that would make me ask the question now: How timely is it? Did they miss it by a day or did they miss it by two weeks? It would make-“ Q “Let me ask-“ THE COURT: “Well this is your department. Isn’t that something you’re supposed to know? I mean, don’t you call for these charts to be made?” A “Your Honor, this is one of the performance measures that I rely -- or, that are tracked by our district directors and regional managers in the field. And that's something that I rely on my directors of --“ THE COURT: “And they don't ever get to you?” A “My directors of field would notify me if there were issues. But, again, they would” -- THE COURT: “Have you ever been notified?” A “I have not been notified that we have significant problems with the deficiencies. And I feel confident that if we did, Ms. Shaw and Julie Richards, my Director of Field for Daycare, would let me know. Again, they would look at these” -- (12.02.14 Morris Cross 93:1-21)
PX724, Various Counts for Fully Licensed Residential Operations	The excel spreadsheet “Various Counts for Fully Licensed Residential operations 9 th Set of Interrogatories: Interrogatory No. 15” shows that approximately 26% of required follow-ups were untimely in calendar year 2012, and approximately 24% were untimely in calendar year 2013. (Various Counts for Fully Licensed Residential Operations)
PX1116, Deirdra Harris, “Follow up for Deficiencies Report Analysis, Southern District, Reporting Period: April 2014,” at DFPS0007914337-38	“Follow Ups Missed by Weight of Deficiency: The table below provides information on missing follow ups that are past due. Between 9-1-2012 and the last day of April 2014, this district had 234 deficiencies that had not been documented as corrected, at the time this data was pulled. The earliest date for a deficiency that has not been documented as corrected has a compliance date of 10/22/10. The latest compliance date missing follow up documentation is 4/28/2014. Several of the deficiencies (27) are awaiting administrative review. The weights of the deficiencies are included in the counts of follow ups missed. This report is providing a list of each follow up that is beyond 15 days of the “Comply By” date. In accordance with the handbook policies, staff may have additional time to complete the follow up of some of the lower weighted deficiencies based the other comply dates given during that inspection.” (Harris, DFPS0007914337-38).
PX1094, Greg Cudnik, “Follow-Up Deficiencies Report Analysis, Eastern District, Reporting Period: April 2014,” at	“Follow Ups Missed by Weight of Deficiency: The table below provides information on missing follow ups that are past due. Between 9-1-2010 and the last day of April 2014, the Eastern District had 39 deficiencies that had not been documented as corrected, at the time this data was pulled. Sixteen of the 39 were awaiting an Administrative Review and could not be followed up on until the review has been completed. The earliest date for a deficiency that has not been documented as corrected has a compliance date of 5/9/12. (This deficiency is for the abuse/neglect standard and is awaiting an Administrative Review. It cannot

<p>DFPS007914279-80</p>	<p>be followed up on until due process in complete). The latest compliance date missing follow up documentation is 5/9/14. The weights of the deficiencies are included in the counts of follow ups missed. This report is providing a list of each follow up that is beyond 15 days of the “Comply By” date. In accordance with the handbook policies, staff may have additional time to complete the follow up of some of the lower weighted deficiencies based the other comply dates given during that inspection. Some of the RC high weight deficiencies without follow ups were related to[:] Medication Records[,] Prudent judgement[,] Service Plans[,] Annual Training[,] Supervision” (Cudnik, DFPS007914279-80)</p>
<p>PX2021, Daryl Kennedy Chansuthus, “Appendix 5, DFPS Residential Child Care Licensing: A Review,” at 71-72</p>	<p>“Untimely/Ineffective Follow-up- According to the Licensing Policy and Procedures Handbook, follow-up inspections are conducted for several different but important reasons. Of particular importance here are the inspections aimed at ‘ensuring that recent deficiencies or a pattern of repeated deficiencies are addressed,’ ‘ensuring that background check matches are completed,’ and ‘evaluating an operation’s compliance with the conditions established to address the issues identified during a risk evaluation.’ Timely follow-up inspections of this type are essential not only to assure the safety, health, and well-being of children placed at operations requiring these inspections but also to facilitate an operation’s improvement and subsequent, ongoing compliance.⁶³ At DFPS, when Licensing investigators and inspectors find ‘deficiencies’ in an operation’s compliance with Minimum Standards, RCCL does not consistently follow up in a timely manner to make sure these deficiencies have been resolved, for both the short-term and the long. The Performance Management Unit’s January 2011 Data and Trend Assessment noted that 35.7 percent of the “reads” on residential operations showed that RCCL did not complete its follow-up within time frames. In the next such report, the figure was 36.4 percent.” (Chansuthus, 71-72)</p>
<p>PX2021, Daryl Kennedy Chansuthus, “Appendix 5, DFPS Residential Child Care Licensing: A Review,” at 73</p>	<p>“The PMU warned again: “Management should strongly limit the instances in which an inspector can utilize follow-up methods other than an actual inspection. . . . If receiving compliance information via phone, fax, or email, it should be required that those methods be accompanied by provider’s word in order to reduce risk to children.” Whether CCL management has followed the PMU’s recommendation is not clear, but commonsense suggests—and emails among Licensing personnel confirm—that as workload rises, RCCL workers are more likely to eschew timely on-site follow-up investigations in favor of merely accepting providers’ assertions that deficiencies have been corrected.” (Chansuthus, 73).</p>
<p>PX2021, Daryl Kennedy Chansuthus, “Appendix 5,</p>	<p>“Mr. Wright testified that over the last two years, the number of targeted casereadings performed by PMU declined from about six to eight casereadings per year to about four per year.³⁹ In fact, in 2013, only two targeted case reading reports were issued by the PMU that related to RCCL operations.⁴⁰ No</p>

DFPS Residential Child Care Licensing: A Review,” at 10	PMU Data Trends and Assessment report was created for 2013, and there is no plan to prepare one for 2014.” (Chansuthus, 10)
12.02.14 Morris Direct, at 73:5-24	Q. “Now, for some reason, PMU didn't do these reports in 2013, did it?” A. “No, they did not.” Q. “And for some reason, PMU did not do this report in early 2014 either, did it?” A. “That is correct. PMU staff looked at this and it said, you know, the data and trend analysis report. And this is something that I inquired into, as I'm learning more about PMU, as I'm learning more about the division and my role as the Child Care Licensing Assistant Commissioner. I said why aren't we doing these? It was relayed to me by Leslie Reed, the Division Administrator for PMU, that the data and trend reports to PMU seemed like a big conglomeration of data, and just putting data simply down on a report rather than doing more analysis. They're looking for a better way to look at this data. They're looking for more ways to ask the question: What causes this? And then move forward from there.” Q. “So you didn't do these reports for the last two years, right?” A. “Correct.” (Morris Direct, 73:5-24)
PX2021, Daryl Kennedy Chansuthus, “Appendix 5, DFPS Residential Child Care Licensing: A Review,” at 79	“The February 2012 Data and Trend Assessment does reflect a high rate of documented technical assistance provided to RTCs and GROs. However, repeat deficiencies remained an issue for 71.9 percent of those cases, with 59.4 percent weighted High or Medium High. Although many factors may have contributed to these results, certainly the increased monitoring burden for an already understaffed, heavily worked unit played a role. In my experience, the kind of “quality monitoring” contemplated by the PMU in the January 2011 Data and Trend Assessment demands time for thoughtful analysis, substantive conversations, and meaningful planning and follow-up. As explained <i>supra</i> , the seriously understaffed RCCL unit suffers from a severe shortage of that precious commodity. This shortage is having dire consequences for RCCL investigations.” (Chansuthus, 79)
PX1111, Child Care Licensing Performance Management Unit, “CCL Data & Trend Assessment,” at DFPS004490503	“Within five days of the due date for the 90 day survey, the Risk Analyst/Case Analyst reviews the risk analysis summary completed during the risk analysis. The Risk Analyst/Case Analyst will review CLASS to assess if the analysis recommendation provided was followed by the local CCL staff. This information is used to complete the survey as appropriate. If the 90 day survey determines the operation followed all or some of the PUM recommendation(s) outlined in the risk analysis then the Risk Analyst/Case Analyst completes a 6 Month Follow-Up Survey six months from the date the risk analysis was submitted to the requester.” (Child Care Licensing Performance Management Unit, DFPS004490503)

<p>PX1111, Child Care Licensing Performance Management Unit, “CCL Data & Trend Assessment,” at DFPS004490503</p>	<p>As shown by the 2011 and 2012 CCL Data & Trend Assessments, RCCL often does not follow the PMU’s risk recommendations. In January 2011, the PMU found that at the 90-day follow-up on risk recommendations made for GROs and RTCs, RCCL had not followed any recommendations in 20% of the cases and had followed recommendations completely in only 40% of cases. (Child Care Licensing Performance Management Unit, DFPS004490503)</p> <p>For CPAs, at the 90-day follow-up, RCCL had not followed any recommendations in 50% of the cases and had followed them completely in only 34.4% of cases. (Child Care Licensing Performance Management Unit)</p>
<p>PX1111, Child Care Licensing Performance Management Unit, “CCL Data & Trend Assessment,” at DFPS004490504</p>	<p>At the six month follow-up, RCCL had not followed any recommendations in 8.3% of cases and had followed them completely in only 33.3% of cases. (Child Care Licensing Performance Management Unit, Performance Management Unit, DFPS004490504)</p> <p>At the six month follow-up, RCCL had followed recommendations partially in 50% of cases and completely in 50% of cases. (Child Care Licensing Performance Management Unit, Performance Management Unit, DFPS004490504)</p>
<p>PX1133, Greg Cudnik, “Technical Assistance Analysis Provided During Inspections Analysis, Eastern District (RC), Month and Year Covered: April 2014,” at DFPS007914307</p>	<p>“The table on the left includes a total of all standards (578) with and without technical assistance provided. The table on the right includes the total number (164) of the standards that had TA provided. When standards are identified as being in compliance, they are often part of a follow up or part of an investigation. The remaining standards in compliance will include specific standards that the CCL staff identified as needing technical assistance. It may have been part of an awareness campaign about water safety, cribs, transportation, among other items.” (Cudnik, DFPS007914307).</p>
<p>PX1134, Deirdra Harris, “Technical Assistance Analysis Provided During Inspections Analysis, Southern District, April 2014,” at DFPS007914359</p>	<p>“The table on the left includes a total of all standards (749) with and without technical assistance provided. The table on the right includes the total number (158) of the standards that had TA provided. When standards are identified as being in compliance, they are often part of a follow up or part of an investigation. The remaining standards in compliance will included specifics standards that the CCL staff identified as needing technical assistance. It may have been part of an awareness campaign about waters safety, cribs, transportation, among other items.” (Harris, DFPS007914359).</p>

<p>DX119, Department of Family and Protective Services, "Sunset Staff Report," at DFPS009007000</p>	<p>"In fiscal year 2013, the agency had only 106 adverse enforcement actions out of almost 22,000 regulated day care facilities, with almost 90,000 standards violated. The agency has only taken four adverse actions against residential child care facilities in the last five years. Further, CCL has never used its administrative penalty authority against residential operations, and has used this authority only four times against day care operations." (Department of Family and Protective Services, DFPS009007000)</p>
<p>12.12.14 Specia Cross, at 12:12- 15:14</p>	<p>Q "And let's go to Defendant's Exhibit Number 119. This is the Sunset Commission report four months ago, August of 2014, and let's go to page 90, and let's go to the bottom box in the corner. Commissioner, you've seen this before. I know the Sunset report is very important to you but here it is in fiscal year 2013, this is when -- this is the -- this was from 2012 to 2013, right, Commissioner?" A. "That's what it says. Q And then CCL, that is Child Care Licensing, true?" A "Yes." Q "So that involves both daycare and residential care. The day -- the residential care will be for the foster children, true?" A "Yes." Q "Okay. There's 10,000 facilities all across our state" -- A "Can I see the" -- THE COURT: "What, sir?" A "What does the footnote say on it, at the top?" MR. YETTER: "Let's see." THE COURT: "Four." MR. YETTER: "Footnote Four -- good question. I don't actually know what Footnote Four says on that." THE COURT: "It probably explains what the fiscal year is but" -- Q "So fiscal year for you would be" -- THE COURT: "Do you -- do you have that on an exhibit?" MR. YETTER: "It's on another page, your Honor, and I don't have that page right handy." A "That's okay. I'm just -- I'd like to know what the footnote is but okay." MR. YETTER: "I think it must have to do with that fiscal year. That would be September 1, 2012 to August 31, 2013." A "Okay." BY MR. YETTER: Q "Residential child care: 10,000 regulated facilities. That would be family -- foster family homes, foster group homes, RTCs, other GROs, correct?" A "Yes." Q "All across our state, 10,286. During that entire 12 months you had 4,000 inspections. We heard a lot of testimony about people that go out and inspect, right?" A "Yes." Q "You had 5,160 investigations. Now that could be an investigation of abuse and neglect or an investigation of nonabuse and neglect, true?" A. "Yes." Q "So we know because we got the statistics from the licensing people that there were almost exactly 2,000 abuse and neglect investigations in fiscal year 2013. Do you remember that testimony" -- A "Yes." Q -- "from Jean Shaw? So there must have been about 3,000 nonabuse or standard investigations, if you do the math. Does that sound about right? If there were 2,000 abuse investigations" -- A "I'll trust your math." Q "Okay. So you have standard violations, 6,000 standard violations. Now the next two boxes I want to focus on: Corrective actions, just to remind the Court, that's their warning, you better do something different or something really bad is going to happen to you, right?" A "Yes." Q "Out of 10,000 facilities across our state, 12 months, 11 regions, plus Harris County, 12 corrective actions by the Department -- this is in the Sunset Commission Report, right?" A "Yes." Q "And adverse actions. That's the one that has teeth. That's says, "I'm denying your permit.</p>

	<p>I'm revoking your permit. I'm suspending your permit." How many in that 12 months, Commissioner, did the state have?" A "This document says one." (Specia Cross, 12:12-15:14)</p>
<p>12.12.14 Specia Cross, at 20:5-9</p>	<p>Q "Now, I talked about a crisis. Obviously if you've only given one adverse action over an entire 12 months something's not working right, is it?" A "I think we need to be better at enforcement. I also know that many facilities close down." Q "Something is -- something's not working right, is it, Commissioner?" A "We are going to address that issue and we are going to do what Sunset told us to do." (Specia Cross, 20:5-9).</p>
<p>PX1111, Child Care Licensing Performance Management Unit, "Performance Management Unit: CCL Data & Trend Assessment," at DFPS004490502, DFPS004490504</p>	<p>In the 2011 CCL Data & Trend Assessment, PMU found that RCCL frequently does not implement corrective actions recommended by the PMU. Evaluation was recommended in 29.5% of CPA cases and 20.8% of GRO/RTC cases, but RCCL implemented Evaluations in only 6.8% of CPA cases and 7% of GRO/RTC cases. (Child Care Licensing Performance Management Unit, DFPS004490502 and DFPS004490504).</p> <p>Probation was recommended in 2.3% of CPA cases and 8.3% of GRO/RTC cases, but RCCL implemented Probation in 0% of CPA cases and 9.3% of GRO/RTC cases. (Child Care Licensing Performance Management Unit, DFPS004490502 and DFPS004490504).</p> <p>Revocation was recommended in 4.2% of GRO/RTC cases reviewed, but RCCL did not implement any Revocations for GRO/RTCs. (Child Care Licensing Performance Management Unit, DFPS004490502 and DFPS004490504).</p>
<p>PX1111, Child Care Licensing Performance Management Unit, "Performance Management Unit: CCL Data & Trend Assessment," at DFPS004490505</p>	<p>The 2011 and 2012 CCL Data & Trend Assessments found repeat deficiencies in a high percentage of the cases read. In the 2011 report, PMU found repeat deficiencies in 65.6% of residential cases reads, 47.1% of which were weighted high or medium-high risk. (Child Care Licensing Performance Management Unit, DFPS004490505)</p>
<p>12.12.2014 Specia Cross, at 16:3-20</p>	<p>Q "One consequence of a more relaxed regulatory environment and that's what they were calling Texas, right?" A "Yes." Q "A relaxed regulatory environment -- can be seen in a high incident -- incidence of repeat violations that can result when regulated entities perceive that they will be not held accountable for ignoring the state's requirements. That's a bad thing, isn't it, Commissioner?" A "Yes." Q "One of the things, going down, not to read all but to kind of just cut to the chase" -- A "And" -- Q -- "one of the things they say here is most of the</p>

	<p>repeat violations occurred on the highest risk standards. That’s a very bad thing, isn’t it?” A “On mostly associated with criminal history check requirements. That is a problem that we’re addressing in this LAR...(Specia Cross, 16:3-20)</p>
<p>DX119, Department of Family and Protective Services “Sunset Staff Report,” at DFPS009007001</p>	<p>“Repeat violations- One consequence of a more related regulatory environment can be seen in a high incidence of repeat violations that can result when regulated entities perceive that they will not be held accountable for ignoring the State’s requirements. This behavior may certainly be seen in the child care licensing community. The chart, <i>Top Five Repeated Violations for Day Care and Residential Operations</i>, describes the most commonly violated standards. Most of these repeat violations occurred on the highest-risk standards, mostly associated with criminal history check requirements. Overall, 31 percent of residential operations and 23 percent of licensed child care centers had repeat violations of the minimum standards or law in fiscal year 2013.” (Department of Family and Protective Services, DFPS009007001)</p>
<p>PX2021, Daryl Kennedy Chansuthus, “Appendix 5, DFPS Residential Child Care Licensing: A Second Review,” at 73-74</p>	<p>“Given RCCL’s untimely and inappropriate follow-up, it is not surprising that many residential operations are allowed to amass patterns of repeated Minimum Standards deficiencies—for which the operations are then duly re-cited by RCCL’s overworked inspectors. The January 2011 Data and Trend Assessment found repeat deficiencies in 65.6 percent of the residential reads conducted for that report, and nearly half of those repetitions were weighted High or Medium-High. The February 2012 report found repeat deficiencies in 77.6 percent of the residential reads, 65.5 percent of which were weighted High or Medium-High. Both Assessments noted in particular repeat citations for background-check related deficiencies—failures by the providers to obtain timely initial or updated background checks on their employees—in high proportions of the CPAs reviewed.” (Chansuthus, 73-74).</p>
<p>PX1111, Child Care Licensing Performance Management Unit, “CCL Data & Trend Assessment,” at DFPS004490524</p>	<p>“Staff should be alert for operations that exceed the average number of deficiencies for the operation type. In addition, more than half of the operations reviewed had repeat deficiencies and around 30% had recitations of standards. These patterns or repetitions were weighted High or Medium High in nearly half of the cases. This indicates an increased risk to children due to the operation’s failure to comply with standards through development of repeat deficiencies, recitations, and the weights of deficiencies.” (Child Care Licensing Performance Management Unit, DFPS004490524).</p>
<p>12.12.14 Specia Cross, at 18:22- 19:17</p>	<p>Q “Well, sure, page 99. Here’s the findings. Let’s blow up — if we blow up the title real quick and a little bit farther down, the next one, there you go. “Cautious approach to enforcement.” It’s in the second paragraph underneath that; that paragraph right there, the second sentence. However — we can read the first one. “The desire for a lighter enforcement hand may stem from concerns that a strong enforcement approach could harm child care providers and ultimately affect the affordability of daycare and the availability of foster care for abused</p>

	<p>and neglected children. However, to go slow in enforcing regulations designed to protect children from safety risks out of concern that some providers may have trouble meeting such protective standards is essentially to accept a level of risk to children simply because the state needs providers regardless of their quality.” Did I read that correctly?” A “This -- the focus of -- yes, you did. The focus on this “-- Q “Do you agree with that statement, Commissioner?” A” I agree with the statement...” (Specia Cross, 18:22-19:17)</p>
<p>DX119, Department of Family and Protective Services, “Sunset Staff Report,” at DFPS009007000</p>	<p>“The desire for a lighter enforcement hand may stem from concerns that a strong enforcement approach could harm child care providers and ultimately affect the affordability of day care and the availability of foster care for abused and neglected children. However, to go slow on enforcing regulations designed to protect children from safety risks out of concern that some providers may have trouble meeting such protective standards is essentially to accept a level of risk to children simply because the state needs providers, regardless of their quality.” (Department of Family and Protective Services, DFPS009007000).</p>
<p>PX1074, Child Care Licensing Performance Management Unit, “Report to Residential Child Care Licensing Management, PMU: CCL Data & Trend Assessment,” at 5</p>	<p>“Management should strongly limit the instances in which an inspector can utilize follow-up methods other than an actual inspection (via policy change). If receiving compliance information via phone, fax, or email, it should be required that those methods be accompanied by provider’s word in order to reduce risk to children.” (Child Care Licensing Performance Management Unit, 5)</p>
<p>PX1074, Child Care Licensing Performance Management Unit, “Report to Residential Child Care Licensing Management, PMU: CCL Data & Trend Assessment,” at 9 and 11</p>	<p>In the 2012 CCL Data & Trend Assessment, PMU found that Evaluation was recommended in 42.3% of CPA cases reviewed and 37.5% of GRO/RTC cases reviewed, but RCCL implemented Evaluations in 0% of CPA cases and only 12.5% of GRO/RTC cases. (Child Care Licensing Performance Management Unit, 9 and 11)</p> <p>Probation was recommended in 7.7% of CPAs reviewed and 25% of GRO/RTC cases reviewed, but RCCL did not implement any Probations for CPAs or GRO/RTCs. (Child Care Licensing Performance Management Unit, 9 and 11)</p> <p>Revocation was recommended in 3.8% of CPA cases and 3.1% of GRO/RTC cases reviewed, but RCCL did not implement any Revocations for CPAs or GRO/RTCs. (Child Care Licensing Performance Management Unit, 9 and 11)</p>
<p>PX1074, Child Care Licensing</p>	<p>In February 2012, the PMU found...for GROs and RTCs...[a]t the six month follow-up, RCCL had not followed any recommendations in 20% of cases and</p>

<p>Performance Management Unit, “Report to Residential Child Care Licensing Management, PMU: CCL Data & Trend Assessment,” at 11</p>	<p>had followed them completely in only 50% of cases. (PX1074, Child Care Licensing Performance Management Unit, Report to Residential Child Care Licensing Management, PMU: CCL Data & Trend Assessment at 11). For CPAs... [a]t the six month follow-up, RCCL had not followed any recommendations in 10% of cases and had followed them completely in only 50% of cases. (PX1074, Child Care Licensing Performance Management Unit, Report to Residential Child Care Licensing Management, PMU: CCL Data & Trend Assessment, at 11).</p>
<p>PX1074, Child Care Licensing Performance Management Unit, “Report to Residential Child Care Licensing Management, PMU: CCL Data & Trend Assessment,” at 10</p>	<p>For CPAs, at the 90-day follow-up, RCCL had not followed any recommendations in 40% of the cases and had followed them completely in only 50% of cases. (Child Care Licensing Performance Management Unit, 10)</p> <p>In February 2012, the PMU found that at the 90-day follow-up on risk recommendations made for GROs and RTCs, RCCL had not followed any recommendations in 20% of the cases and had followed them completely in only 46.7% of cases. (Child Care Licensing Performance Management Unit, 10)</p>
<p>PX1074, Child Care Licensing Performance Management Unit, “Report to Residential Child Care Licensing Management, PMU: CCL Data & Trend Assessment,” at 12</p>	<p>According to the same report, PMU found repeat deficiencies in 71.9% of GROs and RTCs reviewed in which technical assistance had been provided. 59.4% of these deficiencies were weighted High or Medium High. (Child Care Licensing Performance Management Unit, 12)</p> <p>In the 2012 report, PMU found repeat deficiencies in 77.6% of residential reads, 65.5% of which were weighted High or Medium High. (Child Care Licensing Performance Management Unit, 12)</p> <p>Similarly, a February 2012 PMU report found that RCCL follow-up was conducted within applicable timeframes in only 63.6% of residential cases read, meaning that follow-up was untimely in 36.4% of such cases. (Child Care Licensing Performance Management Unit, 12)</p>

Item 19: CCL Investigations, Inspections, and Licensing: (5) DFPS shall track child-on-child abuse, and categorize it as such. The Special Master shall recommend the most appropriate fashion to track child-on-child abuse bearing in mind that the information should be easy to retrieve and should be used to inform all placements and treatments. The Special Master shall also recommend how to categorize the initiators of child-on-child abuse, sensitive to the consequences of labeling children as “perpetrators.” The Special Master shall also recommend if child-on-child abuse should simultaneously be categorized as neglectful supervision by the caregiver.

There is extensive evidentiary support in the record for the various reforms recommended by the Special Masters to address this Item in the Court’s Memorandum Opinion and Verdict including, but not limited to, the following:

Documents	Citations
PX1026, CVS, “CVS Program Administrator Roster and Protocol for Incidents Involving Child Victimization in Foster Care,” at DFPS007678509	“Concerns regarding alleged child-on-child inappropriate sexual acting out or physical aggression in a foster home are reported to Statewide Intake as a neglectful supervision allegation against the caregiver and fall under the jurisdiction of RCCL to investigate.” (CVS, DFPS007678509)
PX1248, Defendants, “Defendants’ Responses to Plaintiffs’ 9 th Set of Interrogatories,” at 10	“Defendants do not track the requested data requested in aggregate format. As Defendants have previously explained to Plaintiffs, Defendants do not consider children as perpetrators for abuse and neglect. Therefore, Defendants do not track child on child abuse. If a there was an instance of child on child abuse, Defendants would make a Reason to Believe determination of negligent supervision against the adults in the home. However, it must be noted that even if Defendants do not track child on child abuse in the aggregate, Defendants are aware of these instances. ” (Defendants, 10)
PX1966, Stephen M. Ryan, Texas Appleseed, “Texas Foster Care: Current Issues, Reform Efforts and Remaining Problems,” at PLTF0006545-46	“At the time of the Comptroller’s report, DFPS did not track or report on the extent of child-on-child abuse in foster care. The Comptroller’s report also found that adult abuse of children was a problem in some foster homes and facilities, and that DFPS investigation of allegations of abuse and neglect at foster homes and facilities was lacking.” (Ryan, PLTF0006545-46)

12.01.14 McCall Redirect, at 79:9-20	Q "Now, one of the things that the State does not do is track the aggregate child on child maltreatment rate. Isn't that true?" A "That's true." Q "So, whether it's a foster group home, this system that has between seven and 12 children, you don't track child on child abuse rates for those types of homes, do you?" A "That would be under residential child care licensing, so I don't know what they track." Q "So you just don't know one way or the other, but the numbers don't come to you." A "Correct." (McCall Redirect, 79:9-20)
12.02.14 Black Cross, at 66:20-67:15	Q "Now, when these -- when there is an incident where a child commits abuse of another child, a teen commits abuse of a younger child, the State of Texas doesn't keep track of that, does it?" A "No." Q "The State of Texas should keep track of that, shouldn't it?" A: "It should be data that we should look at." THE COURT: "I'm sorry, what was the question?" MR. YETTER: Child on child abuse is not tracked in the State of Texas." THE COURT: "Are you kidding? Is that true?" A "We -- in foster homes, in licensed care it is not." BY MR. YETTER: Q "And so you could have a child, a teen, that's got a history of abuse, sexual abuse on other as a perpetrator, and put him into a foster group home with young children and no one's going to know about it at that foster group home because you don't keep track of it, right?" A "Yes, sir. And I'm not over licensing, but yes, sir." (Black Cross, 66:20-67:15)
12.02.14 Morris Cross, at 80:1-19	Q "But you don't keep track of their background on child-on-child abuse do you?" A "We do not track -- well, we do not actively track that within a class. I believe there is a box to check it, but I don't believe it's accurate." Q "So you could be having teenagers that have a history of sexual predation and you have no idea about it, right?" A "Well, define that teenager. Is it an individual who is in the care ratio for the child? Is it an individual who is required to have a background check, like a frequent visitor of the home? If it's -- yeah, I think --" Q "A child that --" A "-- if you just say any individual who comes in the home who is 14 or over, there is always a possibility for that. But if they meet the requirement to have a background check then they need to have one." Q "But if they're a foster child and they have a history you don't check it? You don't even keep track of it?" A "I don't believe we do." (Morris Cross, 80:1-19)
12.08.14 Gilliam Cross, at 26:1-7	"THE COURT: I know. The whole CPS doesn't track child -- on child abuse, so I'm sure there are not a lot of studies being done, apparently. Have you done any studies in your Region One through Nine -- One and Nine?" A "No, ma'am." THE COURT: "Okay." (Gilliam Cross, 26:1-7)
12.09.14 Gonzalez Cross, at 12:1-14:14	Q "Now, you gave us a lot of testimony about child-on-child abuse, right?" A "Yes." Q "Remember that testimony?" A "Yes." Q "Fact is, the State of Texas does not track child-on-child abuse, does it? It does not track child-on-child abuse, does it? A "I guess I'd have to understand what you mean "track?" Q "Track, meaning keep track of it in a centralized way so that the State can access the data in a centralized way on child-on-child abuse by placement, by child, by

	<p>region. You don't have that in Texas, do you?" A "You're talking about an aggregate way of capturing --" "THE COURT: Yes." Q "Correct." A "No." Q "Texas used to have that, didn't it?" A: (No audible response) Q "Before 2010, Texas tracked child-on-child abuse in our state, didn't it? A "I don't know that I can recall that." Q "Well, you were in this area in 2010, weren't you? You had just become, I believe, one of the -- a lead, weren't you --didn't you, or even a director at that time, didn't you -- weren't you?" A "In 2010 I would have been just back to the agency, yes." Q "And in fact in 2004, the Comptroller of the State of Texas, Caroline -- excuse me, Carole Keeton Strayhorn, issued a report on the Texas foster care system called "The Forgotten Children." You remember that report, don't you?" A "Yes." (Gonzalez Cross, 12:1-14:14)</p>
<p>12.09.14 Gonzalez Direct, at 154:18-155:6</p>	<p>THE COURT: "Do you have a separate list of child-on child abuse?" A "I don't have a separate list of child on-child." THE COURT: "Is it kept separately anywhere?" A: "It's documented in the child's record." THE COURT: "I know it's in the child's record, but is it kept anywhere so you can track it to see if one home, in particular, even if it's ruled out, has too many instances of child-on-child abuse?" A "Oh, that would be recorded actually in the Residential Child Care Licensing history. So any time there is an investigation into a particular foster home, all of that history is recorded on that home in Class." (Gonzalez Direct, 154:18-155:6)</p>
<p>12.09.14 Gonzalez Direct, at 158:22-159:3</p>	<p>"THE COURT: She just said they would have to ask questions but there's nowhere in there that says John Doe sexually abused Jim Smith and keep these children apart in the future. Is there a place where we could find that in your records? A I would say there's no place you can find that exact information in the record." (Gonzalez Direct, 158:22-159:3)</p>
<p>12.10.14 Shaw Cross, at 43:8- 44:12</p>	<p>Q "Now, you know, because you testified about this before, that there is no central way that the State of Texas keeps track of the incidents of child-on-child sexual activity." A "Correct, there's no central way." Q "So you can't, no one in our Department today can say that there are -- how many instances or whether there's a trend or how prevalent it is for child-on-child -- I would like to call it sexual abuse, but I know you have a problem with that." A "I do." Q "Child-on-child abuse in foster group homes across the state. You can't figure that out because you don't keep that information, right?" A "Correct." Q "You can't figure out what that rate is across the state for RTCs either, can you, because you don't keep that information?" A "That's correct." Q "Or for family foster homes, true?" A "Correct, we don't track it in an aggregate way." Q "And you don't track it by region either. You can't say what the rate is for those facilities in Region 1 or Region 6." A "That's true." Q "Now, in 2010, or prior to 2010, the State used to track child-on-child abuse, because there was a box that the case investigator would check, right?" A "The investigator could check that if it rose to the level of meeting the definition of abuse." Q "Okay. That was prior to 2010. But you stopped in 2010, didn't you?" A "Thereabouts." (Shaw Cross, 3:8-44:12)</p>

12.10.14 Shaw Cross, at 47:2-14	Q “And one of the recommendations in that report is that the State would track child-on-child abuse and report -- that DFPS should track and report all cases involving child-on-child abuse and investigate such complaints thoroughly. You remember that, don't you?” A “I don't remember the recommendations, no.” Q “Now, to track it all you would really need or would have to do is just have a box that you would start using again your investigators would check for child-on-child abuse, true?” A “I think it would need more clarification than that.” Q “But it's certainly doable, because you did in the past, isn't it?” A “I believe with some clarification, possibly, yes.” (Shaw Cross, 47:2-14)
12.10.14 Shaw Cross, at 48:2-16	Q “Because if you don't know a child's history of child-on-child activity, there is a heightened risk, isn't there?” A: (No response) Q “And I put it in quotes, because you said that in your deposition.” A “I believe that.” Q “Because if -- and there's a heightened risk if these children are of different ages in the home and one of them has a history of sexual activity, true?” A “I'm sorry, could you repeat the question?” Q “Sure. And there's a heightened risk if there are children of different ages and the older one has a history of sexual activity, right?” A “I think anytime a child with sexual activity history indicates a risk, regardless of the age of the other children.” (Shaw Cross, 48:2-16)
12.10.14 Shaw Cross, at 52:11-16	Q “So if you're not tracking and you actually do an investigation, it may not show up anywhere in the boy's files.” A “I think at that time that could be true. I think we've remedied that situation now.” Q “You're not tracking today, are you?” A “Not in any aggregate way, no.” (Shaw Cross, 52:11-16)
12.11.14 P. Wilson Cross, at 22:2-19	Q “And one of the things you also resisted was you said, “We should not have to keep track of abuse by children within an adoptive family on each other -- child on child abuse.” A “I said, I believe, that we track the abuse as we're required to track it under state law and federal law and that that did not meet the definition of child abuse to be reported and tracked.” Q “Okay. Let's be real clear, Ms. Wilson. Your position on behalf of your department back then after Amy Dye and these other children had died in your state is that the department had no obligation to track child on child abuse in these kind of situations, right?” A “I don't recall ever being asked that specific question.” THE COURT: “Well, I asked you earlier and you said you didn't believe in tracking it.” A “And we don't. And I don't recall ever being asked that question before that committee or anywhere else.” (Wilson Cross, 22:2-19)
PX1988, Texas Appleseed, “Improving the Lives of Children in Long-Term Foster Care: The Role of Texas’	“Children aging out of long-term foster care face difficult challenges, including: ...Manifestations of post-traumatic stress disorder induced, not only by parental abuse and neglect, but also by the upheavals and ‘losses’ associated with the traumas and frequent moves and transitions experienced in foster care...These children did not come to foster care from ideal childhoods, and most have experienced severe trauma from abuse, neglect and separation from their families. Instead of providing these vulnerable children with a fresh start in a safe,

Courts & Legal System,” at GK0001030-31	‘fostering’ environment, the foster care system offers added instability and uncertainty.” (Texas Appleaseed, GK0001030-31)
PX2015, William Lee Carter, “Common Types of Harm Identified in Psychological Evaluations of the Named Plaintiffs,” at 8	Information is confidential, filed under seal, or otherwise covered by Amended Protective Order. (Docket Entry 138).
PX2015, William Lee Carter, “Common Types of Harm Identified in Psychological Evaluations of the Named Plaintiffs,” at 30	Information is confidential, filed under seal, or otherwise covered by Amended Protective Order. (Docket Entry 138).
PX2015, William Lee Carter, “Common Types of Harm Identified in Psychological Evaluations of the Named Plaintiffs,” at 31	Information is confidential, filed under seal, or otherwise covered by Amended Protective Order. (Docket Entry 138).
PX2037, Viola Miller, “Overloaded Caseworkers, an Inadequate Placement Array, and Harm to Children in Texas,” at 38	“As a result of placement instability, children can become so traumatized they simply begin to shut down. Their ability to form attachments, i.e., to love, is diminished. Children moved from place to place begin to lose trust in adults and will not risk trying to establish a connection with others in their environment for fear of yet another disappointment. Additionally, as a result of placement instability, children fall behind in school. In response, these children often do one of two things: they either shut down emotionally or they begin to act out aggressively against the world that has not treated them well. They become angry and they have a right to be. Children not provided with stability will quickly begin to sicken in care.” (Miller, 38)

<p>DX21, Gail Gonzalez, "DFPS Memorandum," at DFPS005458044-45</p>	<p>"As a result of their abuse and/or neglect, these victim children may display a number of inappropriate behaviors with each other in the home or at school. Most often, these behaviors are a result of the trauma experienced in their own home environment. Due to this circumstance, it is important to avoid penalizing children in DFPS conservatorship for behaviors that are a result of the trauma experienced in their own home environment. Due to this circumstance, it is important to avoid penalizing children in DFPS conservatorship for behaviors that are a result of their traumatic experiences as a victim. Instead, DFPS must focus on safety and treatment for all child victims." (Gonzalez, DFPS005458044-45)</p>
<p>DX34, Audrey Deckinga, "Memorandum Regarding PSA 13-056," at DFPS006052427</p>	<p>"Children who are removed from their homes and placed into the foster care system have experienced abuse and/or neglect. As a result of their experiences of abuse and/or neglect, these children may at times display a number of inappropriate behaviors with others. Most often, these behaviors are a result of the trauma experienced in the child's or children's home environment. Due to this circumstance, it is important to avoid penalizing children in DFPS conservatorship for behaviors that are a result of their traumatic experiences. Instead, DFPS must focus on safety and treatment for all children involved in an incident when inappropriate behaviors have occurred in a foster care placement, whether a home or facility setting. This is done through proper notification to all key parties of an RCCL investigation, careful monitoring, and case management intervention." (Deckinga, DFPS006052427)</p>
<p>12.03.14 Bentley Direct, at 70:17-24</p>	<p>Q "Ms. Bentley, why are you here today?" A "Because I know that there is children who are in foster care right now who are experiencing what I experienced. And we're in a much darker time and I'm pretty sure it's a lot worse and it occurs a lot more often, so I'm here to speak on their behalf. You know, I might not get justice but, I mean, some things can change for them and the other kids that are going to be in foster care." (Bentley Direct, 70:17-24)</p>
<p>12.03.14 V. Miller Direct, at 31:2-25</p>	<p>Q "Dr. Miller, as a longtime professional in the child welfare system, as a professional that's worked in a child welfare system that's in charge and has custody—legal custody of children in the system, I want to talk to you about your view of harm to children. Does it include physical harm?" A: "Yes" Q "Would it include" THE COURT "And he's going to say does it include mental and psychological harm to children?" A "Those are much more damaging long term to" THE COURT "Than a slap in the face?" A "Absolutely" THE COURT "I think we all know that" A "Physical -- a physical injury heals. It heals by and large. If you traumatize children, what -- and I almost said when they're very young, but the research has changed dramatically on that, that there are just as many potential dangers from trauma and a lack of stability and continuity for those teenagers that people are now calling emerging adults as in early childhood in terms of neuroscience and brain development and those injuries can last a lifetime. And often do." (Miller, 31:2-25)</p>

12.04.14 Sharp Direct, at 170:5-13	Q “Why did you think nobody would believe you if you reported it?” A “There’s a culture of mistrust in the system. Workers, I think -- or young people don’t build relationships with people in a way that allows them to share these things where they can trust people. I mean, you come from a background where you’ve been traumatized and you’ve had to deal with a lot of different things that have caused you to end up in the system and then on top of that, there’s abuse in the system.” (Sharp Direct, 170:5-13)
12.04.14 Sharp Direct, at 172:8-17	Q “And were you aware of instances in which other foster youth were abused or sexually assaulted by other youth?” A “Yeah, that’s a common thing in the bigger homes. Maybe not so much in foster homes where there’s just one or two kids but when there’s lots of kids, that happens a lot, not able to watch everyone and, you know, a lot of the group homes have a variety of children, children who are at different stages in dealing with their trauma. Some of them have behaviors that are a little bit more severe than others and it’s difficult to watch everyone and so that happens a lot.” (Sharp, 172:8-17)
12.04.14 Sharp Direct, at 181:4-5, and 182:11-17	Q “How did your experience in foster care affect you, do you think?” (Sharp, 181:4-5) A “...I don’t think you can ever go back and undo the trauma of being raped by your caregiver, of being beaten by your peers and feeling like you couldn’t talk about it and you didn’t have any hope and I’m just now beginning to be able to process some of those things, even being able to come here today and talk about them in a way that makes sense. And I think that’s what a lot of us are dealing with.” (Sharp, 182:11-17)
12.05.14 Carter Direct, at 79:23-80:3	Q “Now, foster children-- we heard testimony about this but you're a very seasoned licensed psychologist -- do they come into the foster care system typically, in your experience, with any source of emotional or psychological challenges?” A “Yes. A child would not come into a foster care setting unless something bad had happened, whether it's a complete collapse of the family system or some temporary concerns that required intervention. But there's always some kind of stress or even trauma rendered to the child prior to their entry into the foster care system.” (Carter, 79:23-80:3)
12.04.14 V. Miller Direct, at 6:11-7:1	THE COURT: “I wrote down a couple of questions on what to ask you. I’m going to interrupt before I forget. One is the -- you did say you thought that percentage of (indiscernible) was higher than usual. Do -- in your experience, is - - do most departments not count or ever track child-on-child abuse?” A “I can’t imagine not tracking child-on-child abuse, your Honor. I cannot imagine that.” BY MR. YETTER: Q “Did Tennessee track child-on-child abuse? A “Yes.” Q “And tell us how.” A “Well, actually we had several different ways but the thing here is not just recognizing and tracking the abuse but when--particularly with sexually abusing kids, that information has to inform all subsequent placement decision-making” (Miller Direct, 6:11-7:1)

<p>12.04.14 V. Miller Direct, at 8:1-21</p>	<p>Q “And you’re talking about for child-on-child abuse, not just adult-on-child abuse?” A “Child-on-child abuse, yes.” Q “And what -- and, again, I know it seems somewhat obvious but why is that important to maintain the safety of children and the integrity of the system?” A “Well, that’s a critically important piece of the decision making process regarding not only subsequent placements but treatment needs. In those instances, oftentimes both children are victims. Even the one that we would typically call the ‘perpetrator’ is him or herself a victim.” THE COURT: “Well, they’ve usually -- just in sexual abuse, they’ve usually been sexually abused themselves to sexually abuse another child.” A “Exactly, sexually acting out behavior. THE COURT: “So it’s important to identify that and track both of these victims.” A “Exactly, exactly and see that both victims get the treatment services that they need and that they are not placed in the environments where they or other children could be at danger -- in danger.” (Miller Direct, 8:1-21)</p>
<p>12.04.14 V. Miller Direct, at 91:19-24</p>	<p>Q “One last question. In any of these settings, Dr. Miller, does it create -- in any foster care setting for PMC children, is there an unreasonable risk of harm if the State makes no effort to track child-on-child abuse and warn future people about that?” A “I cannot imagine -- imagine not doing that.” (Miller Direct, 91:19-24)</p>
<p>PX1248, Defendants, “Defendants’ Responses to Plaintiffs’ 9th Set of Interrogatories,” at 10</p>	<p>“Defendants do not track the requested data requested in aggregate format. As Defendants have previously explained to Plaintiffs, Defendants do not consider children as perpetrators for abuse and neglect. Therefore, Defendants do not track child on child abuse.” (Defendants, 10).</p>
<p>PX1966, Stephen M. Ryan, Texas Appleaseed, “Texas Foster Care: Current Issues, Reform Efforts and Remaining Problems,” at PLTF0006548-49</p>	<p>“The <i>Forgotten Children</i> report identified abuse and neglect of children in foster care as a significant problem, and noted that the abuse was at the hands of other children as well as adults. In 2004, DFPS did not require that children with histories of sexual abuse, sexual predation or violent criminal records be separated from other children, and <i>Forgotten Children</i> reported horrific examples of cases of child-on-child abuse gathered from survey responses and reviews of DFPS records. The report noted that children at DFPS facilities had been exposed to sexual behavior, if not in their own homes, then by others they encountered in the foster care system, including other children, and that DFPS mixed children with histories of sexual abuse or sexual predation with other children, sometimes deliberately. The report found that from January 2002 to January 2004, DFPS investigative reports for ten facilities, including child placing agencies that operate foster homes, residential treatment facilities and therapeutic camps, included complaints of child-on-child sexual abuse. At the time of the Comptroller’s report, DFPS did not track or report on the extent of child-on-child abuse in foster care....The Comptroller’s report made a number of</p>

	<p>recommendations to remedy the problem of abuse in foster care, including, among other things, prohibiting the placement of sex offenders, sexual predators and children with violent criminal histories with other children; keeping sexually abused children separate from other children; tracking and reporting the number of reports it receives concerning child-on-child physical and sexual abuse by facility” (Ryan, PLTF0006548-49)</p>
<p>12.01.14 McCall Redirect, at 79:9-20</p>	<p>Q “Now, one of the things that the State does not do is track the aggregate child on child maltreatment rate. Isn't that true?” A “That's true.” Q “So, whether it's a foster group home, this system that has between seven and 12 children, you don't track child on child abuse rates for those types of homes, do you?” A “That would be under residential child care licensing, so I don't know what they track.” Q “So you just don't know one way or the other, but the numbers don't come to you.” A “Correct.” (Mcall Redirect, 79:9-20)</p>
<p>12.02.14 Black Direct, at 65:10-24</p>	<p>Q “And do you know in this case, one of the named Plaintiffs, a boy by the name of -- that goes by the initials D. I., was in that situation. The State put him in the situation of a foster group home. Did you know that?” A “No.” Q “And he was eight years old.” THE COURT: “He was the one, if I recall, had been --he was placed in foster care because he had been sexually molested. And sure enough, he goes in at a young age in the foster group home and was sexually molested by one of the older boys in the room.” MR. YETTER: “And the caregiver was asleep.” THE COURT: “The same thing you want to protect your kids against, right?” A “Absolutely.” (Black Direct, 65:10-24)</p>
<p>12.02.14 Black Direct, at 66:20-67:18</p>	<p>Q “Now, when these -- when there is an incident where a child commits abuse of another child, a teen commits abuse of a younger child, the State of Texas doesn't keep track of that, does it?” A “No.” Q “The State of Texas should keep track of that, shouldn't it?” A “It should be data that we should look at.” THE COURT: “I'm sorry, what was the question?” MR. YETTER: “Child on child abuse is not tracked in the State of Texas. THE COURT: Are you kidding? Is that true?” A “We -- in foster homes, in licensed care it is not.” BY MR. YETTER: Q “And so you could have a child, a teen, that's got a history of abuse, sexual abuse on other as a perpetrator, and put him into a foster group home with young children and no one's going to know about it at that foster group home because you don't keep track of it, right?” A “Yes, sir. And I'm not over licensing, but yes, sir.” Q “But it's your job to make sure these children go into safe places, isn't it, Ms. Black?” A “Yes, sir.” (Black Direct, 66:20-67:18)</p>
<p>12.03.14 Carpenter Direct, at 20:11-25</p>	<p>THE COURT: “And the sexual abuse they talk about is child to child as well as staff to child?” A “Yes, yes, ma'am. Yes.” THE COURT: “And that's mostly your experience with the RTCs?” A “There -- I know of some situations where children or -- have been family foster homes or groups homes where there's older kids and younger kids and they've sexually abused there.” THE COURT: “Thank</p>

	you.” BY MR. YETTER: Q “Do you have a couple of –“ THE COURT: “Is this the usual rather than the unusual –“ A “Yes.” (Carpenter Direct, 20:11-25)
12.03.14 Carpenter Direct, at 32:12-33:3	THE COURT: “And what happened to Ms. Bentley – did you hear her testimony about her sexual and physical abuse in every placement she had but one?” A “I’ve heard it before. I did not hear it this morning. THE COURT: Is that typical or atypical?” A “My experience with sexual abuse has been that once it has occurred and happened to a child that they do become re-victimized.” THE COURT: “So is that typical in a foster care situation or not so typical?” A “I would say that 50 percent of the kids that I work with have been sexually abused.” THE COURT: “That you know about?” A “Yes.” THE COURT: “In foster care?” A “Yes, ma’am -- your Honor.” (Carpenter Direct, 32:12-33:3)
12.03.14 Bentley Direct, at 63:2 -9	Q “Ms. Bentley, were you ever sexually abused while you were in foster care?” A “Nonstop, pretty much every home I lived in except one.” Q “And by whom -- not by name -- but whom in terms of their role in your life were you sexually abused?” A “In some of the homes I was abused by the foster parents; and then in most of them I was abused by their children or other children that were placed in the home.” (Bentley Direct, 63:2-9)
12.05.14 Richter Direct, at 15:16 – 16:11	Q “What is it about the mix of ages, Ms. Richter, in your experience that can create a larger risk of child-on-child perpetration, for example?” A “Well, if you're an older child who has been sexually abused or you've been -- you're angry and you haven't been exposed to younger children and this is not your brother or sister, the chances are you're going to approach them, either physically or you're going to sexually approach them. For younger children who have been sexually abused, what I've often seen is they are afraid of big people. They've been sexually abused. Sometimes that's the only time they've gotten any positive attention, by the way, is during the abuse. So they approach the elder kids and curry favors for protection, for safety. And they've already been sexually abused and so they're a little bit sexually hyped anyway, so they do it again. What happens is when this cycle gets repeated, the child never gets a period of time where that behavior isn't occurring. And that's how you build healing and that's how you get them to not see that as a way of life. So by the fact that it's recurring you get a lot more trauma.” (Richter Direct, 15:16-16:11)
12.05.14 Carter Direct, at 113:18 -114:1	Q “Again, is that -- we were just talking about physical abuse. Did -- are children that are subject to sexual abuse, is it true or not true that in the future they, at least at times, can act out themselves on other children?” A “Yes. The way I like to refer to it is that if a child has had their sexual switch turned on much too early and they become aware of those kinds of feelings and behaviors they may continue to explore that through inappropriate sexual conduct not only with themselves, but with others.” (Carter Direct, 113:18-114:1)

12.12.14 Specia Cross, at 70:12-25	<p>Q. “You don’t agree with that. Okay. Page 22 -- actually, let’s go to page 29. The second paragraph from the bottom. One -- this is -- one of the comptroller’s -- recommendations in the comptroller’s report ten years ago, the Appleseed report says -- there’s a number of recommendations. I want to look in the middle, ‘Keeping sexually abused children separate from other children.’ You know that it’s widely accepted in the child welfare field that sexually abused children have a propensity to act out on other children, right?” A. “That can happen.” THE COURT: “Well, isn’t that why they accept it as a fact?” A “Sexually abused children can act out on other children.” (Specia Cross, 70:12-25)</p>
12.11.14 P. Wilson Recross, at 50:21-52:9	<p>THE COURT: “You may be seated. Did you find, Commissioner, that yesterday, I think, I asked you out of the 12,000 foster homes the number that are single child homes?” MR. SPECIA: “Yes, your Honor. I have it right here.” THE COURT: “Then that means no biological or adopted.” MR. SPECIA: “Right. Here’s the information I’ve got. I will give it to you. In foster homes with one foster child placed there are 2,060. Foster group homes with one foster child placed, 61.” THE COURT: “Wait a minute. You said the first one is single child?” MR. SPECIA: “The first category, foster homes one to six children –” THE COURT: “Well, but -- okay. So, that’s one child. That would include, then -- that means no biological or adopted children?” MR. SPECIA: “No, it does not include that. I don’t have that information. It’s just foster children that are in - that we pay for -- there’s one child.” THE COURT:” Okay. That wouldn’t help me out.” MR. SPECIA: “Okay.” THE COURT: “I kind of need the -- I understand that. If that’s not retrievable. Because the whole point is sexually abused children are -- maybe they’re aggressors and maybe they’re -- they’re victims in any event and she said they should all be placed in single child homes, not with other children from the --” MR. SPECIA: “I don’t believe we can retract that information. That is part of my overall redo of the impact system on getting business intelligence. Right now when I have any question, if we record it I can get it very quickly; if we don’t record it it costs me a million dollars. We’re changing the whole guts of the system, been putting business intelligence in it so that I’ll be able to retrieve data that we don’t regularly have quickly.” THE COURT: “Okay. So, if you don’t have that data, then it’s just not available. So, they can’t use that in making placements.” (Wilson Recross, 50:21-52:9)</p>
12.10.14 P. Wilson Direct, at 160:20-161:8	<p>Q “What do you do with a sexually aggressive child?” A. “What we would do is if that child needed to be in a treatment program, then we would place that child in a residential treatment program, and that child would be with other children in that setting. If that child needed to be in a foster home, then we would look for a foster home that could meet that child’s needs and provide the supervision for that child. What happens is that usually --” THE COURT: “But you don’t -- they need nighttime supervision, surely?” A “Well, what happens is that usually means you look for a home with no other children. You look for a home where that would be the only child in that home.” (Wilson Direct, 160:20-161:8)</p>

<p>12.04.14 V. Miller Direct, at 6:11- 8:21</p>	<p>THE COURT: “I wrote down a couple of questions on what to ask you. I’m going to interrupt before I forget. One is the -- you did say you thought that percentage of (indiscernible) was higher than usual. Do -- in your experience, is - - do most departments not count or ever track child-on-child abuse?” A “I can’t imagine not tracking child-on child abuse, your Honor. I cannot imagine that.” Q “Did Tennessee track child-on-child abuse?” A “Yes.” Q “And tell us how.” A “Well, actually we had several different ways but the thing here is not just recognizing and tracking the abuse but when -- particularly with sexually abusing kids, that information has to inform all subsequent placement decision-making.” THE COURT: “And that -- yes and then the home doesn’t supervise enough to allow that to happen.” A “That’s correct.” BY MR. YETTER: Q “Can you explain how Tennessee in several ways tracked --” THE COURT: “Sorry, I interrupted.” Q “-- child-on-child abuse?” A “We had -- our system was very, very different from Texas. Any serious incident -- and that covered a multitude of things -- that occurred in a placement -- in a child’s placement, whether it was an RTC or a foster home had to be reported to DCS, our agency, immediately. There was no three-month reporting period or anything like that. That had to be reported immediately. It was then reviewed and if it was an abuse report, then we had a unit within Investigations called “Special Investigation Unit” that went out and investigated any allegation of abuse and neglect in any of our facilities or foster homes. Then all of that was tracked very closely. I even received a monthly report on that. Then the incidence was also tracked within the investigative reports system because then an investigative report was done. And it was -- the information was also entered into the child’s case file and could be extracted if it needed to be.” Q “And you’re talking about for child-on-child abuse, not just adult-on-child abuse?” A “Child-on-child abuse, yes.” Q “And what -- and, again, I know it seems somewhat obvious but why is that important to maintain the safety of children and the integrity of the system?” A “Well, that’s a critically important piece of the decision making process regarding not only subsequent placements but treatment needs. In those instances, oftentimes both children are victims. Even the one that we would typically call the “perpetrator” is him or herself a victim.” THE COURT: “Well, they’ve usually -- just in sexual abuse, they’ve usually been sexually abused themselves to sexually abuse another child.” A “Exactly, sexually acting out behavior.” THE COURT: “So it’s important to identify that and track both of these victims.” A “Exactly, exactly and see that both victims get the treatment services that they need and that they are not placed in the environments where they or other children could be at danger -- in danger.” (Miller Direct, 6:11-8:21)</p>
<p>12.02.14 Morris Direct, at 80:1-5</p>	<p>Q “But you don’t keep track of their background on child-on-child abuse?” A “We don’t track – well, we do not actively track that within a class. I believe there is a box to check it, but I don’t believe it’s accurate.” (Morris Direct, 80:1-5)</p>

Item 20: Since the Court concluded, "CCL Investigations, Inspections, and Licensing: (6) The Special Master shall recommend other provisions deemed necessary to ensure that RCCL protects foster children from an unreasonable risk of harm,"

There is extensive evidentiary support in the record for the various reforms recommended by the Special Masters to address this Item in the Court’s Memorandum Opinion and Verdict including, but not limited to, the following:

Documents	Citations
<i>Please see references for Items 15 to 19.</i>	

Item 21: Inadequate Placement Array: (1) DFPS shall not allow unrelated children that are more than one service level apart (e.g., Moderate and Intense-level children) to be placed in the same room in any residential facility. The Special Master shall recommend if it is appropriate to allow unrelated children that are only one service level apart (e.g., Basic and Moderate-level children) to be placed in the same room in any residential facility.

There is extensive evidentiary support in the record for the various reforms recommended by the Special Masters to address this Item in the Court’s Memorandum Opinion and Verdict including, but not limited to, the following:

Documents	Citations
PX2041, Mary Dee Richter, M.S.Ed., “The Use of Foster Group Homes by the Texas Department of Family and Protective Services,” at 29	Information is confidential, filed under seal, or otherwise covered by Amended Protective Order. (Docket Entry 138). (Richter, 29)
12.03.14 Carpenter	Q “Do you think healthy basic-service-level children living in the GRO -- that would be a fair environment for them – a healthy environment for them?” A “No because they

Direct, at 29:9-15	can't do the things that I just talked about and also they are mixed with youth that possibly have higher levels of care, which means more behaviors which are possibly dangerous to basic-level kids." (Carpenter Direct, 29:9-15)
12.04.14 Miller Direct, at 88:19-23	Q "Does it lower the risk of harm or increase the risk of harm that that home can have children of different service needs, like some children that are perfectly basic and healthy and some that have more intense needs in that home?" A "It significantly increases the risk of harm." (Miller Direct, 88:19-23)
12.05.14 Richter Direct, at 13:3-17	Q "Now, Ms. Richter, through your many years of experience in child welfare and in the use of group or congregate placements for children in foster care, have you become aware of any risk factors that are attendant to placing 7 to 12 foster children in one home under one roof?" A "There's always at least three, but there's three top ones." Q "Can you list those?" A "Capacity is always a concern because you don't want to stretch caregivers beyond their ability --" Q "Okay. Oh, I'm sorry." A "-- to actually provide --" Q "And there's --" A "Capacity is one. The second one is are you mixing ages of children, because there's potential there for harm. And are you mixing service levels of children, again harm."(Richter Direct, 13:3-17)
12.05.14 Richter Direct, at 16:17-17:4	Q "Ms. Richter, what risks are attendant to placing 7 to 12 unrelated children, or potentially unrelated children, of varying service needs in one home under one roof?" A "Well, again, you're stretching the capabilities of a caregiver. You want caregivers to be patient, have empathy, be on top of things. But the more complex a child's history and needs the more there is for the caregiver to remember. Often these kids are on medication, so I see medication errors because there's too many kids in the home. You see appointments missed, forgot the court hearing, too much going on. While I'm attending to the two-year-old who is having a tantrum over here, the six-year-old just, you know, hit another kid."(Richter Direct, 16:17-17:4)
12.05.14 Richter Direct, at 16:17-16:19 and 17:13-18:1	Q "Ms. Richter, what risks are attendant to placing 7 to 12 unrelated children, or potentially unrelated children, of varying service needs in one home under one roof?" (Richter Direct, 16:17 – 16:19) A "...And when you mix service levels, you see bullying, you see children who are somehow more resilient than others that have come through their abuse and neglect less scathed than others. And those are kids probably at the basic level in Texas. Those children want to have a family desperately. They want their lives to be normal and happy and safe. And when you place very aggressive or self-injurious kids in a home with those children, you now sacrifice a path for them and their resiliency gets further tested. So you may actually damage those children to a point that's unconscionable in my mind. For the children that are severely -- that have severe problems, either emotional, they're severely depressed, they're self-injurious, the basic kids if they're older and larger can sometimes victimize those children." (Richter Direct, 17:13-18:1)

Item 22: Inadequate Placement Array: (2) The Special Master shall recommend what age ranges of unrelated children are appropriate to be placed in the same room in any residential facility. The Court understands that larger age gaps may be more appropriate for younger children (e.g. a five-year-old and a ten-year-old in the same room) than for older children (e.g. a ten-year-old and a 15-year old in the same room).

There is extensive evidentiary support in the record for the various reforms recommended by the Special Masters to address this Item in the Court's Memorandum Opinion and Verdict including, but not limited to, the following:

Documents	Citations
PX2041, Mary Dee Richter, M.S.Ed., "The Use of Foster Group Homes by the Texas Department of Family and Protective Services," at 24	Information is confidential, filed under seal, or otherwise covered by Amended Protective Order. (Docket Entry 138). (Richter, 24)
PX2041, Mary Dee Richter, M.S.Ed., "The Use of Foster Group Homes by the Texas Department of Family and Protective Services," at 29	Information is confidential, filed under seal, or otherwise covered by Amended Protective Order. (Docket Entry 138). (Richter, 29)
12.03.14 Jackson Direct, at 192:19- 193:19	Q "And what has it been like to be in a foster group home?" A "That's one of the most unconscionable things to me just because of the different -- the different kids. Like one time I was in -- I was in a foster group home and there was four kids to a room. There was four beds in a room and this room wasn't -- I could stretch my arms across the room probably, but one of the kids in my room, he was 2, and there was another kid that was in seventh grade, but I was 16 -- maybe 15, I think I was 15, just turned 16, and then there was a kid, he was 19 in the room. So it causes risks, and I actually seen it happen in front of me where one of the kids that were older, he hit one of the little boys because he kept messing with him and he went to jail." THE COURT: "What do you mean "messing with him?" A "Like just annoying him, you know, 2-9 year-olds, they're very annoying sometimes. But --

	<p>so the kid-- the 16-year-old boy hit the 2-year-old and he got taken off to jail, and that was just something that could have been totally avoided. They would have never been in the same home or in the same room or in the same situation, so.” BY MS. LOWRY: Q “What did it feel like to you to be sharing a room with a 2-year-old?” A “It was very uncomfortable because I didn't -- I didn't have the privacy sometimes, or I could never go to a place of silence and just lay down or go to sleep.” (Jackson Direct, 192:19-193:19)</p>
12.04.14 V. Miller Direct, at 88:8-14	<p>Q “Dr. Miller, for -- when you have a group of children --foster children and maybe some of the biological and adopted children of the host family, between twelve -- seven and twelve children, does it lower the risk of harm to the children or increase the risk of harm to the children that they can be of all sorts of ages?” A “It increases the risk of harm to the children.” (V. Miller Direct, 88:8-14)</p>
12.05.14 Richter Direct, at 13:13-17	<p>Q “Now, Ms. Richter, through your many years of experience in child welfare and in the use of group or congregate placements for children in foster care, have you become aware of any risk factors that are attendant to placing 7 to 12 foster children in one home under one roof?” A “There's always at least three, but there's three top ones.” Q “Can you list those?” A “Capacity is always a concern because you don't want to stretch caregivers beyond their ability --” Q “Okay. Oh, I'm sorry.” A “-- to actually provide --” Q “And there's --” A “Capacity is one. The second one is are you mixing ages of children, because there's potential there for harm. And are you mixing service levels of children, again harm.”(Richter Direct, 13:3-17)</p>
12.05.14 Richter Direct, at 14:23-15:6	<p>Q “What risks, Ms. Richter, are attendant to placing 7 to 12 unrelated children of varying ages under one roof in one home?” A “Child-on-child sexual abuse, child-on-child physical abuse, bullying, all of those place the younger children in foster care at great risk for harm, and emotional abuse as well. And subsequent to that, when there's an investigation and some child does get named as a perpetrator of sexual abuse or physical aggression and harms another child, he or she is going to lose their placement.” (Richter Direct, 14:23-15:6)</p>
12.05.14 Richter Direct, at 15:16-16:11	<p>Q “What is it about the mix of ages, Ms. Richter, in your experience that can create a larger risk of child-on-child perpetration, for example?” A “Well, if you're an older child who has been sexually abused or you've been -- you're angry and you haven't been exposed to younger children and this is not your brother or sister, the chances are you're going to approach them, either physically or you're going to sexually approach them.” “For younger children who have been sexually abused, what I've often seen is they are afraid of big people. They've been sexually abused. Sometimes that's the only time they've gotten any positive attention, by the way, is during the abuse. So they approach the elder kids and curry favors for protection, for safety. And they've already been sexually abused and so they're a little bit sexually hyped anyway, so</p>

	<p>they do it again. What happens is when this cycle gets repeated, the child never gets a period of time where that behavior isn't occurring. And that's how you build healing and that's how you get them to not see that as a way of life. So by the fact that it's recurring you get a lot more trauma.” (Richter Direct, 15:16-16:11)</p>
<p>PX50, DFPS, “4000 Placement Options for Children in the Conservatorship of DFPS,” at PLTF0078822</p>	<p>“Foster family homes and the homes of kinship caregivers are considered less restrictive and more family-like by definition. Foster group homes and residential group care facilities, on the other hand, are considered restrictive. Accordingly, whenever a child is placed in a group home or a group care facility, the child’s worker must explain in the issues section of the Placement Detail page in the IMPACT system why the child was not placed in a foster family home or the home of a kinship caregiver instead.” (DFPS, PLTF0078822)</p>
<p>PX50, DFPS, “4000 Placement Options for Children in the Conservatorship of DFPS,” at PLTF0078839</p>	<p>“Children under five must not be placed in foster group homes unless the placement represents the only way to meet a child’s needs (such as placement with siblings or proximity to the child’s parents).” (DFPS, PLTF0078839)</p>
<p>PX2037 Dr. Viola Miller, “Overloaded Caseworkers, an Inadequate Placement Array, and Harm to Children in Texas,” at 38-39</p>	<p>“According to the Jim Casey Youth Opportunities Initiative, child welfare systems should place children in the most family-like setting possible. ‘Place young people in family-based settings where social, educational, and employment activities are supported as normal adolescent behaviors. Do not use congregate care settings. By their nature, these are not conducive to supporting youth in engaging activities that help them ‘practice’ for adulthood, or to helping young people build social capital.’ Tracey Feild, the director of the Child Welfare Strategy Group of the Annie E. Casey Foundation, stated, ‘[g]roup homes is [sic] not a place for any child.’” (V. Miller, 38-39)</p>
<p>PX2037 Dr. Viola Miller, “Overloaded Caseworkers, an Inadequate Placement Array, and Harm to</p>	<p>“In my operational experience, when there is a lack of appropriate family home placements, systems inappropriately place children in group care settings despite the fact that they are able to be served in a family-like environment. As stated by the Jim Casey Youth Opportunities Initiative, ‘[p]lace young people in family-based settings—as opposed to group care—to provide environments for healthy risk taking and learning.’ ‘Group homes cannot provide permanency; however, family foster and kinship homes can.’” (V. Miller, 52)</p>

<p>Children in Texas,” at 52</p>	
<p>PX2037 Dr. Viola Miller, “Overloaded Caseworkers, an Inadequate Placement Array, and Harm to Children in Texas,” at 53</p>	<p>“It is my professional opinion that children belong in family homes and should only be placed in congregate care environments in the extremely limited circumstances in which their needs cannot be met in a home. Accepted professional standards and national policies require children to be placed in the least restrictive, most family-like settings that meet the needs of those children, and discourage the use of institutional group living placements for children who do not need specialized services....Children’s Bureau Child Welfare data for 2012 indicate that Texas placed 7.7 percent of children age 12 or younger in a congregate setting during the year they entered state custody. Only eight other states, the District of Columbia, and Puerto Rico placed a larger percentage of their young children in institutions or group homes. Zeller found that in State Fiscal Year 2013, there were 84 children 12 and under placed in a GRO and 299 children 12 and under placed in an RTC. With limited exceptions, children in congregate care do not normally have foster parents, and their congregate care placement keeps them from building foster family connections that could develop into a permanent family.” (V. Miller, 53)</p>
<p>PX2037 Dr. Viola Miller, “Overloaded Caseworkers, an Inadequate Placement Array, and Harm to Children in Texas,” at 54</p>	<p>“Additionally, research has clearly shown that congregate care placements in very young children lead to poor developmental outcomes, and qualitative studies have raised concerns about the negative impact of group care settings on older children, especially in terms of safety. Studies comparing congregate care to foster home placements illustrate that children placed with families experience better outcomes including fewer subsequent placement moves, less time spent in out-of-home care, increased likelihood of being placed with siblings over time, placement nearer to the child’s town of origin, decreased likelihood of re-abuse, fewer problematic sexual behaviors, and decreased likelihood of juvenile delinquency. The evidence in Texas indicates that Texas inappropriately places children in group care settings in situations where their needs could be served in a family. State policy provides that all children are to be placed in the least restrictive placement appropriate to their needs.” (V. Miller, 54)</p>
<p>PX2037 Dr. Viola Miller, “Overloaded Caseworkers, an Inadequate Placement Array, and Harm to Children in Texas,” at 54-55</p>	<p>“Additionally, Texas policy states that foster group homes and residential group care facilities are more restrictive placements than foster family homes. Therefore, according to DFPS policy, the only children placed in foster group homes and general residential operations (“GROs”) should be children whose needs require those settings. However, as of June 30, 2014, 356 PMC children were placed in non-emergency GROs and receiving only basic child care services.” (V. Miller, 54-55)</p>

<p>PX2041 Mary Dee Richter, “The Use of Foster Group Homes by the Texas Department of Family and Protective Services,” at 5</p>	<p>Information is confidential, filed under seal, or otherwise covered by Amended Protective Order. (Docket Entry 138). (Richter, 5)</p>
<p>PX2041 Mary Dee Richter, “The Use of Foster Group Homes by the Texas Department of Family and Protective Services,” at 7</p>	<p>Information is confidential, filed under seal, or otherwise covered by Amended Protective Order. (Docket Entry 138). (Richter, 7)</p>
<p>DX223, Children’s Rights, “What works in Child Welfare Reform: Reducing Reliance on Congregate Care in Tennessee,” at 4</p>	<p>“[C]ontemporary social work philosophy holds that congregate care should never be considered a long-term placement for any child; rather, it should be used to deliver critical, time-limited therapeutic services while caseworkers plan for the child’s reintegration into a family setting as soon as possible. The philosophy also holds that no child should be placed in a congregate facility that does not provide therapeutic services or enhanced supervision; ‘general’ institutions, like the orphanages of the past, have no place within the modern continuum of child welfare placements.” (Children’s Rights, 4)</p>
<p>12.04.14 V. Miller Direct, at 51:23-52:3</p>	<p>Q “Why does a child welfare system -- why are they focused on putting the children in the most family-like least restrictive places possible?” A “Because we know that that is not only what’s best for children, it’s absolutely essential if those children are going to be whole and remain whole.” (V. Miller Direct, 51:23-52:3)</p>
<p>12.04.14 V. Miller Direct, at 72:4-22</p>	<p>Q “Now, is it better or worse to put children into group placements, what is called “congregate care” if they’re normal children, healthy children, basic and service-needs children?” A “It’s absolutely worse.” A “Because we know that -- you know, I’ve said this before. I said it yesterday. I’ve already said it this morning again. Children need families and -- in order to grow up strong and healthy and</p>

	<p>whole and move to a successful adulthood and the jury is not -- no longer out on that. I mean, we know this. The neuroscientific research is there. It's in the literature. It's in the child development basis of understanding of what children need in order to healthy and whole and, you know, again, as we said yesterday, we've said we can be better parents than your parents can be. Then we have an obligation to be mindful of what it is children need to develop and grow and be healthy and whole normally during the period --hopefully very brief period of time that they're in the custody of the State." (V. Miller Direct, 72:4-22)</p>
<p>12.02.14 Black Direct, 69:14-19</p>	<p>Q "Now, Ms. Black, on this topic, the State knows that it's supposed to put children in the most family-like, least restrictive setting, right?" A "Yes." Q "Appropriate to their needs, true?" A "Yes." (Black Direct, at 69:14-19)</p>
<p>12.05.14 Carter Direct, at 134:9-15, 134:22-135:1</p>	<p>Q "We have heard -- or Judge Jack has heard a significant amount of testimony that children should be placed in the most family-like, least restrictive setting. Do you understand what that means, and have you had any experience with that?" A "Oh, yes, I understand that." Q "And why is that, from a psychological point of view, why is that important to children?" ... A "There's little question that children are best served within a family setting as opposed to an institutional setting, so to the degree that we can do that with children who are in State care, it's by far in their best interest." (Carter Direct, 134:9-15, 134:22-135:1)</p>

Item 23: Inadequate Placement Array: (3) DFPS shall track how many placements in its array are designated as single-child homes (including biological and adopted children), and track how many foster children need single-child homes. DFPS shall explain its criteria for determining which children need single-child homes. DFPS shall ensure that all children who need single-child homes are placed in such homes, unless it is in the child's best interest to remain with siblings or be supervised at a congregate care facility. If a child who needs a single-child home is not placed in such a home, the child's primary CVS caseworker must explain why in the child's case files.

There is extensive evidentiary support in the record for the various reforms recommended by the Special Masters to address this Item in the Court's Memorandum Opinion and Verdict including, but not limited to, the following:

Documents	Citations
<p>12.10.14 P. Wilson Direct, at 160:20-161:8</p>	<p>Q "What do you do with a sexually aggressive child?" A "What we would do is if that child needed to be in a treatment program, then we would place that child in a residential treatment program, and that child would be with other children in that setting. If that child needed to be in a foster home, then we would look for a foster home that could meet that child's needs and provide the supervision for that child. What happens is that usually --" THE COURT: "But you don't -- they need nighttime supervision, surely?" A "Well, what happens is that usually means you</p>

	<p>look for a home with no other children. You look for a home where that would be the only child in that home.” (Wilson Direct, 160:20-161:8)</p>
<p>12.11.14 P. Wilson Recross, at 50:21-52:20</p>	<p>THE COURT: “...Did you find, Commissioner, that yesterday, I think, I asked you out of the 12,000 foster homes the number that are single child homes?” MR. SPECIA: “Yes, your Honor. I have it right here.” THE COURT: “Then that means no biological or adopted 1 children, too? MR. SPECIA: Right. Here's the information I've got. I will give it to you. In foster homes with one foster child placed there are 2,060. Foster group homes with one foster child placed, 61.” THE COURT: “Wait a minute. You said the first one is single child?” MR. SPECIA: “The first category, foster homes one to six children --” THE COURT: “Well, but -- okay. So, that's one child. That would include, then -- that means no biological or adopted children?” MR. SPECIA: “No, it does not include that. I don't have that information. It's just foster children that are in --that we pay for -- there's one child.” THE COURT: “Okay. That wouldn't help me out.” MR. SPECIA: “Okay.” THE COURT: “I kind of need the -- I understand that. If that's not retrievable. Because the whole point is sexually abused children are -- maybe they're aggressors and maybe they're -- they're victims in any event and she said they should all be placed in single child homes, not with other children from the --” MR. SPECIA: “I don't believe we can retract that information. That is part of my overall redo of the impact system on getting business intelligence. Right now when I have any question, if we record it I can get it very quickly; if we don't record it it costs me a million dollars. We're changing the whole guts of the system, been putting business intelligence in it so that I'll be able to retrieve data that we don't regularly have quickly.” THE COURT: “Okay. So, if you don't have that data, then it's just not available. So, they can't use that in making placements.” MR. SPECIA: “If I understand it, when they make the placement, they know and they look at which biological children are in the home.” THE COURT: “Well, how do they know where to look if it's not listed?” MR. SPECIA: “When they are actually looking at the placement packet of the home, that information --” THE COURT: “I just need to know how many single child placements you have available and if you don't --” MR. SPECIA: “I will ask if that can be retrieved, but that's the information they've given me so far.” (Wilson Recross, 50:21-52:20)</p>
<p>PX1966, Ryan, Stephen M., Texas Appleseed, “Texas Foster Care: Current Issues, Reform Efforts and Remaining Problems,” at PLTF0006549</p>	<p>“The Comptroller’s report made a number of recommendations to remedy the problem of abuse in foster care, including, among other things, prohibiting the placement of sex offenders, sexual predators and children with violent criminal histories with other children; keeping sexually abused children separate from other children; tracking and reporting the number of reports it receives concerning child-on-child physical and sexual abuse by facility; thoroughly investigating all complaints, allegations or reports and making the results public; and improving all background checks and licensing procedures for all foster care workers and facilities.” (Stephen M. Ryan, Texas Appleseed, PLTF0006549)</p>

12.02.14 Black Cross, at 67:10-15	Q “And so you could have a child, a teen, that's got a history of abuse, sexual abuse on other as a perpetrator, and put him into a foster group home with young children and no one's going to know about it at that foster group home because you don't keep track of it, right?” A “Yes, sir. And I'm not over licensing, but yes, sir.” (Black Cross, at 67:10-15)
12.05.14 Richter Direct, at 15:16-23	Q “What is it about the mix of ages, Ms. Richter, in your experience that can create a larger risk of child-on-child perpetration, for example?” A “Well, if you're an older child who has been sexually abused or you've been -- you're angry and you haven't been exposed to younger children and this is not your brother or sister, the chances are you're going to approach them, either physically or you're going to sexually approach them.” (Richter Direct, at 15:16-23)
12.10.14 P. Wilson Direct, at 160:20-161:8	Q “What do you do with a sexually aggressive child?” A “What we would do is if that child needed to be in a treatment program, then we would place that child in a residential treatment program, and that child would be with other children in that setting. If that child needed to be in a foster home, then we would look for a foster home that could meet that child's needs and provide the supervision for that child. What happens is that usually --” THE COURT: “But you don't -- they need nighttime supervision, surely?” A “Well, what happens is that usually means you look for a home with no other children. You look for a home where that would be the only child in that home.” (Wilson Direct, 160:20-161:8)
PX1864, DFPS, “Self-Evaluation Report Submitted to the Sunset Commission,” at DFPS005654793	“Foster home and foster group homes are both required to follow minimum health and safety standards, although there are a few additional requirements for foster group homes to mitigate risks associated with having seven to 12 children in one home. For instance, there are risks associated with providing appropriate overall supervision, ensuring individualized attention to each child’s specific needs, and managing stress when caring for large numbers of children in a foster group home. Therefore, a statutory limit restricts the number of children under age 5 in the home, and requires additional caregivers in group homes as opposed to foster homes.” (DFPS, DFPS005654793)
12.12.14 Specia Cross, at 70:12-25	Q “You don’t agree with that. Okay. Page 22 -- actually, let’s go to page 29. The second paragraph from the bottom. One -- this is -- one of the comptroller’s -- recommendations in the comptroller’s report ten years ago, the Appleseed report says -- there’s a number of recommendations. I want to look in the middle, “Keeping sexually abused children separate from other children.” You know that it’s widely accepted in the child welfare field that sexually abused children have a propensity to act out on other children, right?” A “That can happen.” THE COURT: “Well, isn’t that why they accept it as a fact?” A “Sexually abused children can act out on other children.” (Specia Cross, 70:12-25)

Item 24: Inadequate Placement Array: (4) DFPS shall conduct a formal statewide needs assessment to determine an adequate placement array, including by number, geographic distribution, and placement type. DFPS must procure a placement array that substantially matches this assessment, and place children appropriately. The Special Master shall recommend how frequently DFPS must complete additional statewide needs assessments. DFPS shall take whatever steps are necessary to ensure that it has available to it at all times an adequate placement array, including by number, geographic distribution, and placement type, and that foster children are placed promptly in an appropriate facility.

There is extensive evidentiary support in the record for the various reforms recommended by the Special Masters to address this Item in the Court’s Memorandum Opinion and Verdict including, but not limited to, the following:

Documents	Citations
PX1273, Dr. Patrick Leung, DFPS, “Statewide Placement Quality and Capacity Needs Analysis, Deliverable 5 Report,” at DFPS005161766	“Capacity needs must be assessed by reviewing the individual needs of children and comparing their needs to the availability of appropriate substitute care placement within reasonable proximity of the children’s homes.” (Leung, DFPS005161766)
PX1271, DFPS, “Moving Foster Care Forward: A plan to meet the needs of children and families by improving the capacity of the Foster Care System,” at DFPS002066034	“[O]bjective is intended to:” ... “Build a broad array of placement options that ensure an appropriate placement for every child in every community.” ... “Establish mechanisms for ongoing capacity assessment and improvement.” (DFPS, DFPS002066034)

<p>12.09.14 Gonzalez Cross, at 30:15-31:1</p>	<p>Q “Now, one of the things that if you were -- as Director of Placements, that would help you is if you did a regular assessment of what needs you have across the state with the children of our state and what resources you have. That would help you, wouldn't it?” A “Yes, it would help --” Q “Because you could know whether you need more placements for sibling groups and in what parts of the state you need those placements for sibling groups, right?” A “Are you talking about some kind of formal assessment?” Q “Yes” A “Formal needs assessment, yes, ma'am.” (Gonzalez Cross, 30:15-31:1)</p>
<p>PX969, DFPS, “Improving Child and Youth Placement Outcomes: A System Redesign (Foster Care Redesign) Report,” at DFPS0006323 25</p>	<p>“[The open provider enrollment process] offers no assurance that providers will locate in communities where residential services are needed. As such, an imbalance in the geographic distribution of foster care services throughout the [S]tate now exists,” which is “problematic for DFPS caseworkers who want to place children close to home and for providers who must care for children from other communities.” (DFPS, DFPS000632325)</p>
<p>12.09.14 Reinhardt Direct, at 202:2-17</p>	<p>Q “What type of services does ACH provide under the Foster Care Redesign Model?” A “ACH has brought a lot of enhanced services to the 3b catchment area. One of the things that they have is what they call an ECAP system. And the ECAP system works similar to eHarmony in matching children to the appropriate placement. So their network providers input information related to the foster homes, what foster homes can offer, what different types of placements can offer. And when our caseworkers call in or make referrals for children for placement, one of the tools that they use in matching children is they enter that child's information into the system and then that matches proximity, who can accept sibling groups, you know, least restricted, that type of stuff all comes up on the screen. And that's the starting point that ACH uses to start matching a child to the appropriate placement.” (Reinhardt Direct, at 202:2-17)</p>
<p>PX2015, William Lee Carter, “Common Types of Harm Identified in Psychological</p>	<p>Information is confidential, filed under seal, or otherwise covered by Amended Protective Order. (Docket Entry 138). (Carter, 25)</p>

<p>Evaluations of the Name Plaintiffs,” at 25</p>	
<p>PX2041, Mary Dee Richter, M.S.Ed., “The Use of Foster Group Homes by the Texas Department of Family and Protective Services,” at 18</p>	<p>Information is confidential, filed under seal, or otherwise covered by Amended Protective Order. (Docket Entry 138). (Richter, 18)</p>
<p>PX2041, Mary Dee Richter, M.S.Ed., “The Use of Foster Group Homes by the Texas Department of Family and Protective Services,” at 18</p>	<p>Information is confidential, filed under seal, or otherwise covered by Amended Protective Order. (Docket Entry 138). (Richter, 18)</p>
<p>PX2041, Mary Dee Richter, M.S.Ed., “The Use of Foster Group Homes by the Texas Department of Family and Protective Services,” at 28</p>	<p>Information is confidential, filed under seal, or otherwise covered by Amended Protective Order. (Docket Entry 138). (Richter, 28)</p>
<p>12.05.14 Richter Cross, at 64:3-14</p>	<p>Q “But haven't we established that you really didn't look at the actual training of the foster group home caregivers?” A “I looked at what was required in statute. Let me say that again because I really don't want to mislead anyone. I know there's additional training that they get, but I didn't see a set curricula for certain kinds of</p>

	<p>kids. I didn't see a curricula for if you had sexually abused kids. What I saw was here's the number of hours they have to have. I didn't think that was probably adhered to, so I looked on the website and it said that they get PRIDE training, which I know is 35 hours and I know that it's primarily designed to help caregivers select in or out of being a caregiver. It's not really a treatment oriented training. So I don't mean to mislead. I understand they got different training. But I'm saying the state requirements is a floor, and that's what concerns me. It's too little." (Richter Cross, 64:3-14)</p>
<p>PX1271, DFPS, "Moving Foster Care Forward-A Plan to Meet the Needs of Children and Families by Improving the Capacity of the Foster Care System," DFPS0020660 32</p>	<p>"Not all children in foster care are appropriate for placement in an individual foster home. Some children with higher needs require treatment provided by residential treatment centers and other residential facilities (See Appendix C). As a result of children's varying needs, simply comparing the number of foster homes to the number of children in foster care will not clearly define the shortage of available capacity for children in foster care. In addition, children have other placement needs, such as being placed with siblings and in close proximity to relatives and schools. Capacity needs must be considered by reviewing the individual needs of children in care with available, appropriate settings and the proximity of those settings to the home of the child." (DFPS, DFPS002066032)</p>
<p>PX1271, DFPS, "Moving Foster Care Forward-A Plan to Meet the Needs of Children and Families by Improving the Capacity of the Foster Care System," DFPS0020660 33</p>	<p>"Clearly, the capacity challenge is more than the need to develop more beds. It is developing the right resources for children in their home communities, with siblings and in settings that meet their individual and therapeutic needs." (DFPS, DFPS002066033)</p>
<p>PX1273 Dr. Patrick Leung, DFPS, "Statewide</p>	<p>"To address current substitute care placement capacity issues and meet future placement needs, a strategic plan based on a comprehensive statewide assessment of substitute care placement capacity and related services is needed.</p>

<p>Placement Quality and Capacity Needs Analysis, Deliverable 5 Report, University of Houston,” at DFPS005161766</p>	<p>A comparison of the total licensed capacity of all foster homes and residential substitute care facilities to the total actual or projected number of foster children does not accurately reflect a capacity shortage because the specific substitute care placement and service needs of children vary. Capacity needs must be assessed by reviewing the individual needs of children and comparing their needs to the availability of appropriate substitute care placement within reasonable proximity of the children’s homes.” (Leung, DFPS005161766)</p>
<p>12.12.14 Specia, Cross at 38:15-39:18</p>	<p>Q “Commissioner, if you don’t measure a problem you don’t know how big it is, right?” A “You’ve got to define “measure.” Define “measure” and evaluate a problem in order to figure out what you’re doing.” Q “Fair enough, and if you don’t define measure and evaluate a problem you can’t fix it, can you?” A “That’s true.” Q “Now a good child welfare system doesn’t make excuses when it does things that it shouldn’t be doing, right?” A “Show me the example you’re using on that one.” Q “I am. The placement array situation in our state is broken, isn’t it?” A “The placement array is challenged.” Q “It’s a broken system and that’s why you’re supposedly redesigning it, right?” A “No.” Q “Okay.” A “Texas is unique and one of the issues and I’ve given this a lot of thought -- one of our huge problems in the rural areas in Texas is the lack of resources: mental health resources, substance abuse resources, treatment resources. When I pick foster homes for children in individual counties, I necessarily have to have resources there for the children, particularly if they have specialized problems. I will tell you that we do not have the capacity in the State of Texas. We don’t have psychiatrists in West Texas or South Texas. We’ve got a real issue on the availability of certain resources particularly in the rural area that I think adds to the challenge of an array of services in every county in the state.” (Specia Cross, 38:15-39:18)</p>
<p>12.4.14 V. Miller Direct at 53:14 -54:14</p>	<p>Q “Let’s take a step back. When you are running a child welfare system, do you do what’s called an “Annual Needs Assessment”?” A “Yes.” Q “And what is that, if you can explain it to the Court?” A “Well -- and it isn’t just annual. It’s really -- it’s an ongoing process. You -- what you do is look at county by county where -- not just where you have foster homes. You can’t just count numbers but you have to look at who are your kids and we don’t -- we used an historical perspective. I can’t remember whether we used two or three years and we really analyzed from a child base. Who are the kids who have come into care in this county? What are their ages? What are their issues? What kind of challenges have we had? And we sort of used that as our database for then building an adequate array of services around what we project based on that historical data we will need. Now, that’s not a one-shot deal. You have to continue on -- really on an ongoing basis to look county by county and usually your biggest challenge is -- I mean, I could place a million babies every hour of the day but challenges are, of course, your teenagers, kids with medical issues,</p>

	<p>kids with treatment needs -- and we used a great many treatment foster homes as opposed to institutionalization -- sibling group placements, those groups that perhaps might be more challenging to place in family settings.” (V. Miller, Direct, 53:14 - 54:14)</p>
<p>12.4.14 V. Miller Direct at 59:9-20</p>	<p>Q “Remains difficult because the needs of the children do not always match the number, type and location of the placement options available.” What are we -- what are -- how do you interpret that sentence?” A “That they do not have the adequate -- what we were talking about before. They simply don’t have the adequate array of services to meet the needs of their children.” Q “If you don’t do an assessment of the needs of the children in your system on an annual basis or some sort of regular basis, how do you match the resources that you have to the needs of the children?” A “You can’t.” (V. Miller Direct, 59:9-20)</p>
<p>12.4.14 V. Miller Direct, at 68:22-70:2</p>	<p>Q “In -- let’s talk about Tennessee. In Tennessee, can you tell us what you did?” A “Well, we had a situation in Tennessee where we had workers passing each other on the highway moving kids across the state. I mean, it was just crazy, the situation there. And we created -- first of all, we did the needs assessment that we’ve talked about before and an analysis really not just of our placement array but of our foster homes and other resources because you want to know the characteristics of those foster homes as well. And then we put together structures internally. Probably one of the most important ones that we put in place was called “cross-functional teams.” We did one other one that is -- it’s in the report and I’m blinded right now but what we did for a little while was close -- what we call “close borders” so you would stop some of this -- do you remember the next friend that was testifying yesterday and she said, our county -- I think it’s the county here fills up with kids from another county and then I’ve got to take my kids and send them to another county. Well, you have to stop that craziness. So we did some closing borders until we could get that service array built up. So we would stop that kind of thing. And then we had what we call “cross-functional teams” that were represented in each region and this was after we had a comprehensive needs assessment so that our private providers and our local staff sat down and set targets. That’s another thing I don’t see in Texas. I don’t see any setting -- we need X number of families in this county who can love and care for teenagers, you know, that kind of -- and it’s called “targeted recruitment” for very real reasons because that’s what it is. You’re seeking what you need. That was one of the things we did.” (V. Miller, Direct, 68:22-70:2)</p>
<p>12.4.14 V. Miller Direct, at 72:23-73:11</p>	<p>Q “In Tennessee when you did your needs assessment, when you did your targets, when you did your recruiting, did the number of children that were having to go in to group placements go up or go down?” A “Down.” Q “And was that a good thing or bad thing for those children?” A “That was a good thing.” Q “What about sibling groups, brothers and sisters? How did they fare -- how did they do in your -- in Tennessee when you started focusing doing a needs -- a placement assessment, doing targets, doing recruiting, how did they do, children --” A “Eighty-four percent</p>

	<p>of our sibling groups were together.” Q “Is that the situation we see in Texas today?” A “No.” (V. Miller Direct, 72:23-73:11)</p>
<p>PX1271, DFPS, “Moving Foster Care Forward-A Plan to Meet the Needs of Children and Families by Improving the Capacity of the Foster Care System,” DFPS002066033</p>	<p>“One of the more dramatic capacity challenges for foster youth includes a small, but highly publicized number who have had to stay overnight in DFPS offices (or other locations supervised by DFPS staff) because no immediate and appropriate placement was available. This group is comprised mostly of older youth with challenging behaviors that many foster care providers are reluctant to accept.” (DFPS, DFPS002066033)</p>
<p>PX2037, Viola P. Miller, “Overloaded Caseworkers, an Inadequate Placement Array, and Harm to Children in Texas,” at 52</p>	<p>“DFPS even has a policy for what to do when no placement is available, specifying that children are to be placed in a hotel or are to sleep overnight in a DFPS office, an unfortunate event that has happened in every region in the state at least once in the past year.” (V. Miller, 52)</p>
<p>DX18, DFPS, “Child Specific Contracts,” at DFPS005170103</p>	<p>“In late 2006, DFPS began to see an increased number of youth identified as “children without placement.” These youth typify as those with high service needs and multiple placements. During this period, the working relationship between DFPS and residential providers was characterized by mistrust in general. Contracted residential providers were not willing to accept youth with high needs for fear that licensing would issue citations in violation of minimum standards. Contracted residential providers reported they could not meet the emotional or behavioral needs of the youth within licensing requirements. Thus, DFPS experienced an increase of youth sleeping in CPS supervised settings instead of in licensed residential care...In FY 2007, there were 611 episodes of youth sleeping in offices or hotels, as there was no DFPS provider willing to accept the youth for placement. Because of this placement capacity crisis for high needs youth, DFPS sought placement capacity outside DFPS licensed and contracted care. As a result, DFPS entered into Child Specific Contracts with residential providers who agreed to meet the diverse emotional and behavioral needs of this population...Youth placed in facilities that</p>

	<p>are not licensed by DFPS do not have the same oversight or supervision. IF DFPS issues a license, minimum standards are set forth in the Texas Administrative Code to enforce oversight regarding health, safety, and treatment of youth. Youth placed in non-DFPS licensed facilities may not have the same oversight and protections.” (DFPS, DFPS005170103)</p>
<p>12.8.14 Vasquez, Direct at 199:11 – 202:3</p>	<p>Q “Have you in your experience encountered situations in which children end up staying in DFPS offices rather than a foster care placement setting?” A “Yes.” Q “Has that occurred recently?” A “Yes.” Q “How recently?” A “Maybe within October 16th -- it happened in October and then just this past week we had another incident where the child, she spent the night at the department’s offices because the department could not find a placement for her because she was pregnant. I spent about six hours with her because I -- I didn’t feel that the department was treating her correctly. She was pregnant. She’s a minor, teenager, and she had an 18 month old. Her biggest worry was that she wanted to make sure that her daughter was taken care of correctly and based on the responses that the department was giving with regards to the placement options for this minor mom who’s pregnant and her 18 month old child, I was not satisfied that they were going to be taken care of properly and so I remained at her side for about six hours to make sure that the department would take care of her correctly and they were constantly on the phone trying to find placements for those six hours, the department was, the investigator, and they were not able to find a placement for her in Cameron County or in Corpus Christi. The nearest place that they found a place for her was in San Antonio and it wasn’t available until the following day. So she ended up spending the night at the department’s offices and when I went to -- with her to see where she was going to be staying because she had her baby with her, she was going to be reunited with her baby and I wanted to make sure that the department brought the baby to her because she was crying for her child. We get to the department’s offices and I ask them, “Well, can you show us where she’s going to be spending the night?” and they said, “You’re standing in the room she’s going to be spending the night.”” Q “So you observed -- you observed the space where they were going to have this child spend the night?” A “Yes.” Q “What did you see? Can you describe that?” A “It was a cluttered room with shelves that were very disorganized and there was two inflatable mattresses on the corner. There was no sheets for the inflatable mattress and the caseworker even laughed and she said -- when I asked her, “Are you even sure that those work?” she’s like, “Well, it’ll be good enough for tonight.” And I told them, “Well, you guys are aware that these situations might arise. Why don’t you have a mattress for them and especially in her condition? She can’t be sleeping on an inflatable mattress with her baby.” And it was a safety hazard for the 18 month old. I mean you could barely walk in that room. There was clutter all over the place.” THE COURT: “And where was the room again?” A “In the department’s --” THE COURT: “The department, the caseworker.” A “-- offices in the -- in Brownsville.” BY MS. BARTOSZ: Q “This was the DFPS office in Cameron County?” A “Yes.” Q “And did your client, that 15 year old client spend the night there?” A “Yes.” Q “And an 18 month child of hers?” A “Yes.” Q “On these</p>

	inflatable mattresses?" A "Correct." Q "How long ago did this take place?" A "That happened in October 2014." (Vasquez, Direct 199:11 – 202:3)
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Item 25: Inadequate Placement Array: (5) DFPS shall track how many children are in each residential facility, including biological and adopted children, as well as each facility's licensed capacity. DFPS shall make this information easy to retrieve.

There is extensive evidentiary support in the record for the various reforms recommended by the Special Masters to address this Item in the Court's Memorandum Opinion and Verdict including, but not limited to, the following:

Documents	Citations
12.05.14 Richter Direct, at 25:1-26:2	Q "Now, Ms. Richter, you've testified about the number or percentage of foster group homes that you found to have seven or more children in them?" A "Uh-huh." Q "And what was that percentage again?" A "That was 48 percent." Q "In calculating that 48 percent or deriving at it, were you able to determine whether that included or excluded biological or adoptive children that might also be present in that foster group home?" A "No, those are only foster children. So because they don't count biological and adopted children, I asked for that data. It wasn't available." "THE COURT: "Okay, so wait a minute. The State has told me that they have a limit with foster group homes, right? And that includes the biological and foster -- and adopted children of the parents." MS. BARTOSZ: "That's right, your Honor."THE COURT: "Right?" A "Yes, ma'am." THE COURT: "But apparently they don't track what children the foster parents have, so they don't know the limits." A "That's my understanding, your Honor." THE COURT: "Because they could not provide you with a number of foster parent actual children in the home." A: Correct." (Richter Direct, 25:1-26:2)
12.05.14 Richter Direct, at 26:8-20	Q "Ms. Richter, based on your experience in the management of a state child welfare system, is it important to track the actual number of children placed into homes?" A "It's critical." Q "Why?" A "Well, if you have rules and regs that are based upon what you believe to be the best practice and you have licensing standards, you have an obligation to ensure that those standards are being met. Whether they are good standards or bad standards, they are law generally; and you should be obeying the law. So tracking that is extremely important. It also gives you an idea of how your system is operating and where you might have problems." (Richter Direct, 26:8-20)
12.09.14 Gonzalez Cross, at 6:14- 7:3	"We asked for the total number of children in the foster group homes across the State, including biological and adopted children of the host parents. The State said they couldn't provide it and that this information is with the CPA's." "BY MR. YETTER: Q Ms. Gonzalez, that's accurate, isn't it?" A "Well, that information is with the child placing agency --" Q "Correct." A "-- but we have access to

	information about the individual homes.” Q “And there is no place at the State of Texas that you could today key in and in an aggregate way tell us how many total children are in the foster group homes across the State, could you?” A “No.” (Gonzalez Cross, 6:14-7:3)
12.11.14 Burstain Cross, at 60:7-12	Q “The State does not track in a centralized way how many biological or adoptive children are in foster group homes, does it?” A “There is no report that -- about how many biological --there is no, like, data warehouse report, you're correct, on how many biological children there are in foster group homes.” (Burstain Cross, 60:7-12)

Item 26: Inadequate Placement Array: (6) DFPS can continue to pursue Foster Care Redesign, but only if the Special Master recommends, and the Court agrees, that Redesign meets the statewide needs assessment. The Special Master can evaluate Foster Care Redesign.

There is extensive evidentiary support in the record for the various reforms recommended by the Special Masters to address this Item in the Court’s Memorandum Opinion and Verdict including, but not limited to, the following:

Documents	Citations
12.09.14 Reinhardt Cross, at 5:16-6:2	Q “Now, Foster Care Redesign is to address a specific problem that the State has, isn't it? The placement array for foster care placements, right?” A “I think it's to improve outcomes for children, youth, and families.” Q “But it's focused on where the foster care placement options are around the state, to improve the system, right?” A “It is to improve the system, yes, sir. Q And the way they're going to improve the system is by getting a better array of placement options where the children need them. That's the goal at least.” A “It's to improve capacity, yes, sir.” (Reinhardt Cross, 5:16-6:2)
12.09.14 Reinhardt Cross, at 6:22-7:21	Q “In fact, what Foster Care Redesign, the problem that exists in Texas today that Foster Care Redesign is supposed to fix is that children are being placed -- at least one of the problems -- children are being placed outside of their home communities far too often, right?” A “For some children, yes, sir.” Q “And children are being moved from place to place to place around the state far too often for some children, true?” A “For some children, yes.” Q “And some children are being separated from their siblings and families far too often, true? That's a problem.” A “For some children, yes, sir.” Q “And some children are -- in our state and in our system are having disrupted educational experience. In other words, they're being moved from school to school to school far too often, true?” A “For some children.” Q “And for some children in our state, their whole social support system is being fractured because of being moved from time -- from place to place to place.” A “For some children.” Q “Those are all current, real, damaging problems to some children in our state today, aren't they?” A “For -- I'm not sure about the word "damaging," but for some children it certainly creates challenges, yes, sir.” (Reinhardt Cross, 6:22-7:21)

<p>12.09.14 Reinhardt Cross, at 9:7- 10:16</p>	<p>Q “So what we need to do is fix the placement array in the State of Texas so children can stay in their home counties and have the right kind of placements for them in their home counties. That's what we need to do in Texas today, don't we?” A “For most children, yes. We need to improve the system so that more children can remain in their home communities.” Q “And what we --” A “That's the goal of Foster Care Redesign that we started with in 2009.” Q “Sure. And what we need to do today is stop children from moving from place to place to place around the state needlessly, right?” A “We need to improve upon placement stability, yes, sir.” Q “And keep siblings together if it can be done, true?” A “If it's in that individual child's best interest, yes, sir.” Q “And help these children, especially PMC children and longer stayers to have a seamless, coherent educational experience, staying in -- having as few of schools as they can, right?” A “Yes, sir.” Q “And keeping that strong social support system around these children by not moving them from place to place to place, right?” A “Yes, sir, improving placement stability.” Q “We all agree on what the problems are. And what you've told us is you're working on Foster Care Redesign which, in theory, is supposed to address at least some of those problems, isn't it?” A “Yes, sir.” Q “Now, the -- after five years of work, as we talked about at the beginning, Foster Care Redesign is really just getting started, isn't it?” A “We've been working on it for five years. We have had two contracts. We have one current contract in place, yes, sir.” (Reinhardt Cross, 9:7-10:16)</p>
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Item 27: Inadequate Placement Array: (7) The Special Master shall recommend provisions to solve the problem of children being removed from placements where they are succeeding because their level of care has altered. The Special Master shall also recommend provisions to solve the perverse incentive of DFPS providing additional funds to caregivers for children at increased levels of care.

There is extensive evidentiary support in the record for the various reforms recommended by the Special Masters to address this Item in the Court’s Memorandum Opinion and Verdict including, but not limited to, the following:

Documents	Citations
<p>PX939, DFPS, “Improving Child and Youth Placement Outcomes: A System Redesign,” at DFPS000630358</p>	<p>“When children improve their levels of need, placement changes are likely to occur. For many children, placement changes are negative experiences. As a result, some children do not work to improve their levels of need for fear of placement changes.” (DFPS, DFPS000630358)</p>

<p>PX939, DFPS, “Improving Child and Youth Placement Outcomes: A System Redesign,” at DFPS000630358</p>	<p>“When children maintain higher levels of need and fail to make progress, providers maintain reimbursement at the higher foster care rate. This perverse incentive does not adequately acknowledge, compensate, or distinguish providers who provide quality services which improve the child’s well-being and functioning.” (DFPS, DFPS000630358)</p>
<p>PX939, DFPS, “Improving Child and Youth Placement Outcomes: A System Redesign,” at DFPS000630359</p>	<p>Recommendation to “allocate leveraged funds for performance to further improve outcomes” such that the system can “[d]ecrease the duration and/or intensity of services that children and youth need while in foster care due to improved well-being and behavioral functioning[.]” (DFPS, DFPS000630359)</p>
<p>PX939, DFPS, “Improving Child and Youth Placement Outcomes: A System Redesign,” at DFPS000630359</p>	<p>“In the current system, each level of service (basic, moderate, specialized or intense) in combination with each placement type (child placing agency, general residential operation or residential treatment center) determines the reimbursement rate for a day of service. The reimbursement rate in the redesigned foster care system should be determined by comb[in]ing a blended rate with a case rate to create a <i>single blended case rate</i> for each catchment area.” (DFPS, DFPS000630359)</p>
<p>PX2015, William Lee Carter, “Common Types of Harm Identified in Psychological Evaluations of the Named Plaintiffs,” at 13</p>	<p>Information is confidential, filed under seal, or otherwise covered by Amended Protective Order. (Docket Entry 138).</p>

<p>PX2041, Mary Dee Richter, M.S.Ed., “The Use of Foster Group Homes by the Texas Department of Family and Protective Services,” at 19</p>	<p>Information is confidential, filed under seal, or otherwise covered by Amended Protective Order. (Docket Entry 138).</p>
<p>12.04.14 Sharp Direct, at 174:1-12</p>	<p>Q “You said you’d been in a number -- maybe ten, as many as ten foster group homes. How do the conditions in those places vary?” A “I don’t think there were any good foster group homes. I don’t think you can give children the time and attention they need, particularly children who have experienced some type of trauma, which all children in foster care have. Whenever you have ten-plus kids in a home and you tend to their only their very basic needs and you put them all in one room and you segregate them from everyone else, that’s not a way to treat young people and that certainly isn’t a way to help them address the problems that they’re dealing with.” (Sharp Direct, 174:1-12)</p>
<p>PX1966, Stephen M. Ryan, Texas Appleseed, “Texas Foster Care: Current Issues, Reform Efforts and Remaining Problems,” at PLTF0006530</p>	<p>“Increasing funding must be considered an essential part of reforming Texas foster care. Texas ranks 47th nationally in per child funding for child welfare. According to the Center for Public Policy Priorities, Texas spent about \$837 million on child protection (prevention, services, and foster care), or an average of \$134 per child, which is 58 percent lower [than] the national average of \$319 per child.” (Stephen M. Ryan, Texas Appleseed, PLTF0006530)</p>

Item 28: Inadequate Placement Array: (8) The Special Master shall recommend other provisions deemed necessary to ensure that DFPS’s placement array no longer causes an unreasonable risk of harm to foster children.

There is extensive evidentiary support in the record for the various reforms recommended by the Special Masters to address this Item in the Court’s Memorandum Opinion and Verdict including, but not limited to, the following:

Documents	Citations
PX1988, Texas Appleseed, “Improving the Lives of Children in Long-Term Foster Care: The Role of Texas’ Courts & Legal System,” at GK0001030-31	“Children aging out of long-term foster care face difficult challenges, including: ...Manifestations of post-traumatic stress disorder induced, not only by parental abuse and neglect, but also by the upheavals and ‘losses’ associated with the traumas and frequent moves and transitions experienced in foster care[.] These children did not come to foster care from ideal childhoods, and most have experienced severe trauma from abuse, neglect and separation from their families. Instead of providing these vulnerable children with a fresh start in a safe, ‘fostering’ environment, the foster care system offers added instability and uncertainty.” (Texas Appleseed, GK0001030-31)
PX2015, William Lee Carter, “Common Types of Harm Identified in Psychological Evaluations of the Named Plaintiffs,” at 8	Information is confidential, filed under seal, or otherwise covered by Amended Protective Order. (Docket Entry 138).
PX2015, William Lee Carter, “Common Types of Harm Identified in Psychological Evaluations of the Named	Information is confidential, filed under seal, or otherwise covered by Amended Protective Order. (Docket Entry 138).

Plaintiffs,” at 30	
PX2015, William Lee Carter, “Common Types of Harm Identified in Psychological Evaluations of the Named Plaintiffs,” at 31	Information is confidential, filed under seal, or otherwise covered by Amended Protective Order. (Docket Entry 138).
PX2037, Viola P. Miller, “Overloaded Caseworkers, an Inadequate Placement Array, and Harm to Children in Texas,” at 38	“As a result of placement instability, children can become so traumatized they simply begin to shut down. Their ability to form attachments, i.e., to love, is diminished. Children moved from place to place begin to lose trust in adults and will not risk trying to establish a connection with others in their environment for fear of yet another disappointment. Additionally, as a result of placement instability, children fall behind in school. In response, these children often do one of two things: they either shut down emotionally or they begin to act out aggressively against the world that has not treated them well. They become angry and they have a right to be. Children not provided with stability will quickly begin to sicken in care.” (Miller, 38)
DX21, Gail Gonzalez, “DFPS Memorandum,” at DFPS005458044-45	“As a result of their abuse and/or neglect, these victim children may display a number of inappropriate behaviors with each other in the home or at school. Most often, these behaviors are a result of the trauma experienced in their own home environment. Due to this circumstance, it is important to avoid penalizing children in DFPS conservatorship for behaviors that are a result of the trauma experienced in their own home environment. Due to this circumstance, it is important to avoid penalizing children in DFPS conservatorship for behaviors that are a result of their traumatic experiences as a victim. Instead, DFPS must focus on safety and treatment for all child victims[.]” (Gonzalez, DFPS005458044-45)
DX34, Audrey Deckinga, “Memorandum Regarding PSA 13-056,” at DFPS006052427	“Children who are removed from their homes and placed into the foster care system have experienced abuse and/or neglect. As a result of their experiences of abuse and/or neglect, these children may at times display a number of inappropriate behaviors with others. Most often, these behaviors are a result of the trauma experienced in the child's or children's home environment. Due to this circumstance, it is important to avoid penalizing children in DFPS conservatorship for behaviors that are a result of their traumatic experiences. Instead, DFPS must focus on safety and treatment for all children involved in an incident when inappropriate behaviors

	have occurred in a foster care placement, whether a home or facility setting. This is done through proper notification to all key parties of an RCCL investigation, careful monitoring, and case management intervention.” (Deckinga, DFPS006052427)
12.03.14 Bentley Direct, at 70:17-24	Q “Ms. Bentley, why are you here today?” A “Because I know that there is children who are in foster care right now who are experiencing what I experienced. And we're in a much darker time and I'm pretty sure it's a lot worse and it occurs a lot more often, so I'm here to speak on their behalf. You know, I might not get justice but, I mean, some things can change for them and the other kids that are going to be in foster care.” (Bentley Direct, 70:17-24)
12.03.14 V. Miller Direct, at 31:2-25	Q “Dr. Miller, as a longtime professional in the child welfare system, as a professional that’s worked in a child welfare system that’s in charge and has custody -- legal custody of children in the system, I want to talk to you about your view of harm to children. Does it include physical harm to children?” A “Yes.” Q “Would it include --“ THE COURT: “And he’s going to say does it include mental and psychological harm to children?” “Those are much more damaging long term to --” THE COURT: “Than a slap in the face?” A “Absolutely.” THE COURT: “I think we all know that.” A “Physical -- a physical injury heals. It heals by and large. If you traumatize children, what -- and I almost said when they’re very young, but the research has changed dramatically on that, that there are just as many potential dangers from trauma and a lack of stability and continuity for those teenagers that people are now calling emerging adults as in early childhood in terms of neuroscience and brain development and those injuries can last a lifetime. And often do.” (Miller Direct, 31:2-25)
12.04.14 Sharp Direct, at 170:5-13	Q “Why did you think nobody would believe you if you reported it?” A “There’s a culture of mistrust in the system. Workers, I think -- or young people don’t build relationships with people in a way that allows them to share these things where they can trust people. I mean, you come from a background where you’ve been traumatized and you’ve had to deal with a lot of different things that have caused you to end up in the system and then on top of that, there’s abuse in the system.” (Sharp Direct, 170:5-13)
12.04.14 Sharp Direct, at 172:8-17	Q “And were you aware of instances in which other foster youth were abused or sexually assaulted by other youth?” A “Yeah, that’s a common thing in the bigger homes. Maybe not so much in foster homes where there’s just one or two kids but when there’s lots of kids, that happens a lot, not able to watch everyone and, you know, a lot of the group homes have a variety of children, children who are at different stages in dealing with their trauma. Some of them have behaviors that are a little bit more severe than others and it’s difficult to watch everyone and so that happens a lot.” (Sharp Direct, 172:8-17)
12.04.14 Sharp Direct, at	Q “How did your experience in foster care affect you, do you think?” A “...I don’t think you can ever go back and undo the trauma of being raped by your caregiver, of

181:4-5 and 182:11-18	being beaten by your peers and feeling like you couldn't talk about it and you didn't have any hope and I'm just now beginning to be able to process some of those things, even being able to come here today and talk about them in a way that makes sense. And I think that's what a lot of us are dealing with." (Sharp Direct, at 81:4-5 and 182:11-18)
12.05.14 Carter Direct, at 79:19-80:3	Q "Now, foster children-- we heard testimony about this but you're a very seasoned licensed psychologist -- do they come into the foster care system typically, in your experience, with any source of emotional or psychological challenges?" A "Yes. A child would not come into a foster care setting unless something bad had happened, whether it's a complete collapse of the family system or some temporary concerns that required intervention. But there's always some kind of stress or even trauma rendered to the child prior to their entry into the foster care system." (Carter Direct, 79:19-80:3)
12.05.14 Richter Direct, at 15:16-16:11	Q "What is it about the mix of ages, Ms. Richter, in your experience that can create a larger risk of child-on-child perpetration, for example?" A "Well, if you're an older child who has been sexually abused or you've been -- you're angry and you haven't been exposed to younger children and this is not your brother or sister, the chances are you're going to approach them, either physically or you're going to sexually approach them. For younger children who have been sexually abused, what I've often seen is they are afraid of big people. They've been sexually abused. Sometimes that's the only time they've gotten any positive attention, by the way, is during the abuse. So they approach the elder kids and curry favors for protection, for safety. And they've already been sexually abused and so they're a little bit sexually hyped anyway, so they do it again. What happens is when this cycle gets repeated, the child never gets a period of time where that behavior isn't occurring. And that's how you build healing and that's how you get them to not see that as a way of life. So by the fact that it's recurring you get a lot more trauma." (Richter Direct, 15:16:16-11)
12.05.14 Richter Direct, at 208:6-24	Q "Okay. What kind -- what about the number of placements the children on your caseload in PMC have experienced? Can -- is-- can you say anything about that?" A "Well, I sure can. They just move them around all the time. They move these kids a lot. And it's difficult on them. It creates a problem in my office, and it's sort of a sore spot that I have because they're supposed to tell me when they move a kid, but a lot of times they forget to tell me. I don't know why they forget. They just tell me, I'm sorry, I forgot." Q "And by 'they,' you're referring to whom?" A "The caseworkers. They forget to tell me. I've even gone to court and asked our local CPS judge, could you just make them read the law? Could you give them a seminar? Could you make them do something to alert me they're moving my kid? Because I want to know why. I've even had them in an adoptive placement where they take one kid out and then they -- the second kid busts the placement. It's like a game of survivor going on in this adoptive placement. And it's so frustrating because I don't know that's going on." (Richter Direct, 208:6-24)

Item 29: Foster Group Homes: (1) The Special Master shall recommend if FGHs should continue to operate based on whether FGHs can be improved to the extent that they will not cause an unreasonable risk of harm to foster children.

There is extensive evidentiary support in the record for the various reforms recommended by the Special Masters to address this Item in the Court's Memorandum Opinion and Verdict including, but not limited to, the following:

Documents	Citations
PX2037, Viola P. Miller, "Overloaded Caseworkers, An Inadequate Placement Array, and Harm to Children in Texas," Report 2014, at 49-50	"According to several regional leaders, the greatest need for new homes is for children with behavioral disorders, large sibling groups and children with health issues. These groups may well require a level of foster home care higher than basic. Since it is the private providers who secure homes for children with needs greater than 'basic,' it is even more concerning that legacy regions are not partnering with the private providers to develop a comprehensive approach to building an adequate service array." (V. Miller, 49-50)
PX2037, Viola P. Miller, "Overloaded Caseworkers, An Inadequate Placement Array, and Harm to Children in Texas," Report 2014, at 55	"Therefore, according to DFPS policy, the only children placed in foster group homes and general residential operations ('GROs') should be children whose needs require those settings. However, as of June 30, 2014, 356 PMC children were placed in non-emergency GROs and receiving only basic child care services." (V. Miller, 55)
12.04.14 Miller Direct, at 88:24-89:3	Q "And does it lower the risk or increase the risk of harm that those children, that group of children in that home can be both related and completely unrelated strangers to each other? Does that lower the risk or increase the risk?" A "Increases the risk." (Miller Direct, 88:24-89:3)

<p>12.04.14 Miller Direct, at 89:4-90:4</p>	<p>Q “Is there anything about how the State of Texas in running its foster group home arrangement that you think comports with national professional standards?” A “There are no standards for anything called a ‘foster group home.’ So what -- all you have to look at are group care standards and no. I mean, the foster group home doesn’t exist in the nomenclature or the descriptions of service arrays.” Q “Is it --” A “Group homes do.” Q “-- is it safe, Dr. Miller, in your opinion, or is it unsafe to have children of different ages, children of different genders, children of different service needs, children that may be related or complete strangers to each other in these group homes at night with no one awake to watch them? Is that safe or not?” A “That is not safe.” Q “Is there any doubt in your mind about that, Dr. Miller?” A “No doubt in my mind.” “THE COURT: So it’s not an unreasonable risk of harm? It’s just plain old not safe? A “It’s just plain old not safe.” BY MR. YETTER: Q “Would you ever let one of your own children be in a setting like that, Dr. Miller?” A “Not in a million years.” (Miller Direct, 89:4-90:4)</p>
<p>12.05.14 Richter Cross, at 65:14-24</p>	<p>Q “When you looked at mixing, a mixing of children in a foster group home, does any of your analysis say whether those mixes, either of level of care needs or ages was a consequence of keeping siblings together?” A “No, but I made that assumption. I think I mentioned that it's unrelated kids that I'm worried about. And, in fact, I really support keeping siblings together and I think that the foster group homes if they were used exclusively for siblings and were given the supports that we talk about, that would probably help them find placements. Because sibling groups are hard to place; I understand that.” (Richter Cross, 65:14-24)</p>

Item 30: Foster Group Homes: (2) If the Special Master determines that FGHs should continue to operate, the Special Master shall recommend necessary provisions, including awake-night supervision, additional staff training, and more appropriate staff-to-child ratios.

There is extensive evidentiary support in the record for the various reforms recommended by the Special Masters to address this Item in the Court’s Memorandum Opinion and Verdict including, but not limited to, the following:

Documents	Citations
<p>PX2041, Mary Dee Richter, M.S.Ed., “The Use of Foster Group Homes by the Texas Department of Family and Protective Services,” at 15</p>	<p>Information is confidential, filed under seal, or otherwise covered by Amended Protective Order. (Docket Entry 138).</p>

<p>PX2041, Mary Dee Richter, M.S.Ed., “The Use of Foster Group Homes by the Texas Department of Family and Protective Services,” at 17</p>	<p>Information is confidential, filed under seal, or otherwise covered by Amended Protective Order. (Docket Entry 138).</p>
<p>PX2041, Mary Dee Richter, M.S.Ed., “The Use of Foster Group Homes by the Texas Department of Family and Protective Services,” at 22</p>	<p>Information is confidential, filed under seal, or otherwise covered by Amended Protective Order. (Docket Entry 138)</p>
<p>PX2041, Mary Dee Richter, M.S.Ed., “The Use of Foster Group Homes by the Texas Department of Family and Protective Services,” at 11</p>	<p>Information is confidential, filed under seal, or otherwise covered by Amended Protective Order. (Docket Entry 138)</p>
<p>PX2041, Mary Dee Richter, M.S.Ed., “The Use of Foster Group Homes by the Texas Department of Family and Protective Services,” at 6</p>	<p>Information is confidential, filed under seal, or otherwise covered by Amended Protective Order. (Docket Entry 138).</p>

<p>PX2041, Mary Dee Richter, M.S.Ed., "The Use of Foster Group Homes by the Texas Department of Family and Protective Services," at 27</p>	<p>Information is confidential, filed under seal, or otherwise covered by Amended Protective Order. (Docket Entry 138)</p>
<p>PX1864, DFPS, "Self-Evaluation Report Submitted to the Sunset Commission September 2013," at DFPS005654793</p>	<p>"[T]here are a few additional requirements for foster group homes to mitigate risks associated with having seven to 12 children in one home. For instance, there are risks associated with providing appropriate overall supervision, ensuring individualized attention to each child's specific needs, and managing stress when caring for large numbers of children in a foster group home." (DFPS, DFPS005654793)</p>
<p>12.05.14 Richter Direct, at 31:12-17</p>	<p>Q "You've been in here -- have you been in court to hear the testimony of some of the foster youth?" A "I have and I have to say they weren't surprising to me. But I want to say this. The remedies, awake night supervision and on-call, are basic. They're not fancy. Those are basic accepted things that you do." (Richter Direct, 31:12-17)</p>
<p>12.04.14 V. Miller Direct, at 87:6-24</p>	<p>Q "Do states putting children into groups have to have more protection than if there is small family -- foster family homes --" A "Yes." Q "-- for those children? Why is that? It seems obvious but can you tell us why, Dr. Miller?" A "Well, the - - you know, the more children you have, the more risk that you have and one of my big concerns about these foster group homes -- although I have a lot of them -- they're neither fish nor fowl. You know, they're not a home setting and they're not a group setting and it seems to me that if you're going to have that many kids in one place, you've got to have some fail-safes to at least set up some minimal assurance that they're safe. It's very difficult to monitor that many kids, especially kids with -- when you look at the mix of age groups and the mix of disabilities or children with disabilities -- or service-level needs -- I'm sorry -- that are in those homes. You've got to have something to try to facilitate their safety and protection." (V. Miller Direct, 87:6-24)</p>

<p>12.04.14 V. Miller Direct, at 88:8-89:3</p>	<p>Q “Dr. Miller, for -- when you have a group of children -- foster children and maybe some of the biological and adopted children of the host family, between twelve -- seven and twelve children, does it lower the risk of harm to the children or increase the risk of harm to the children that they can be of all sorts of ages?” A “It increases the risk of harm to the children.” Q “Does it lower the risk of harm to the children or increase the risk of harm that that home can have both genders of children in the home?” A “Increases the risk of harm.” Q “Does it lower the risk of harm or increase the risk of harm that that home can have children of different service needs, like some children that are perfectly basic and healthy and some that have more intense needs in that home?” A “It significantly increases the risk of harm.” Q “And does it lower the risk or increase the risk of harm that those children, that group of children in that home can be both related and completely unrelated strangers to each other? Does that lower the risk or increase the risk?” A “Increases the risk.” (V. Miller Direct, 88:8-89:3)</p>
<p>12.05.14 Richter Direct, at 13:3- 15:10</p>	<p>Q “Now, Ms. Richter, through your many years of experience in child welfare and in the use of group or congregate placements for children in foster care, have you become aware of any risk factors that are attendant to placing 7 to 12 foster children in one home under one roof?” A “There’s always at least three, but there’s three top ones.” Q “Can you list those?” A “Capacity is always a concern because you don’t want to stretch caregivers beyond their ability --” Q “Okay. Oh, I’m sorry.” A “-- to actually provide --” Q “And there’s --” A “Capacity is one. The second one is are you mixing ages of children, because there’s potential there for harm. And are you mixing service levels of children, again harm.” Q “So let’s take those up one at a time here. Capacity. What about the capacity, 7 to 12 children, carries with it a potential risk?” A “Well, in my experience if you have 7 to 12 children in a home, you have to really attend to the caregivers, support them, give them the kind of training and support they need, or bad things are going to happen. And when caregivers aren’t taken care of, then the kids aren’t. But the more important thing is that when you have 7 to 12 children in a home -- all children need to be supervised; we all know that. So if I’m a mother taking kids to a birthday party or I’m a lifeguard at a swimming pool with kids in it, I know the more children I have to watch over, the tougher that child becomes. So it’s the same when you’re caring for children. But when you add that these are abused, neglected children who have suffered the largest betrayal any person could have, it becomes even more difficult because they’ve adapted to a system of their own abuse by running away, by having tantrums, by crying, by cutting on themselves. And so the demands are very great. So the more of those children we place, the more at risk they are for harm.” Q “In assessing the risk of harm flowing from capacity, the number of children placed in a single setting, is it significant that these children may be unrelated?” A “Much more significant than anything is the fact they’re unrelated. There are no bonds, there are no ties; and, therefore, there’s not that instinct to protect or not harm.” Q “Now, you’ve identified a second risk factor as age or mix of ages?” A “Yes.” Q “What risks, Ms. Richter, are attendant to placing 7 to 12 unrelated children of varying ages under one roof in one home?”</p>

	<p>A “Child-on-child sexual abuse, child-on-child physical abuse, bullying, all of those place the younger children in foster care at great risk for harm, and emotional abuse as well. And subsequent to that, when there's an investigation and some child does get named as a perpetrator of sexual abuse or physical aggression and harms another child, he or she is going to lose their placement. Now, in my experience a lot of time the victim loses their placement because they feel like that home has been inappropriate. So then they move that child. So placement disruption is a side harm that happens that's pretty serious.” (Richter Direct, 13:3-15:10)</p>
<p>12.05.14 Richter Direct, at 15:16-18:4</p>	<p>Q “What is it about the mix of ages, Ms. Richter, in your experience that can create a larger risk of child-on-child perpetration, for example?” A “Well, if you're an older child who has been sexually abused or you've been -- you're angry and you haven't been exposed to younger children and this is not your brother or sister, the chances are you're going to approach them, either physically or you're going to sexually approach them. For younger children who have been sexually abused, what I've often seen is they are afraid of big people. They've been sexually abused. Sometimes that's the only time they've gotten any positive attention, by the way, is during the abuse. So they approach the elder kids and curry favors for protection, for safety. And they've already been sexually abused and so they're a little bit sexually hyped anyway, so they do it again. What happens is when this cycle gets repeated, the child never gets a period of time where that behavior isn't occurring. And that's how you build healing and that's how you get them to not see that as a way of life. So by the fact that it's recurring you get a lot more trauma.” Q “Finally, or thirdly, you identified the mix of service levels as a risk factor --” A “Yes.” Q “-- yes?” A “Yes.” Q “Ms. Richter, what risks are attendant to placing 7 to 12 unrelated children, or potentially unrelated children, of varying service needs in one home under one roof?” A “Well, again, you're stretching the capabilities of a caregiver. You want caregivers to be patient, have empathy, be on top of things. But the more complex a child's history and needs the more there is for the caregiver to remember. Often these kids are on medication, so I see medication errors because there's too many kids in the home. You see appointments missed, forgot the court hearing, too much going on. While I'm attending to the two-year-old who is having a tantrum over here, the six-year-old just, you know, hit another kid. It's very complex. So the fact that I have to remember all these things, is this the child that can be left with the younger children or not, is this the child I can leave in a room with a pet or not, is this the child that can play in the yard or not alone? So there's just this multitude of things as a caregiver that you have to remember. And within all that you have to do it in a way that's kind and patient and empathic, because you're dealing with hurt children. And when you mix service levels, you see bullying, you see children who are somehow more resilient than others that have come through their abuse and neglect less scathed than others. And those are kids probably at the basic level in Texas. Those children want to have a family desperately. They want their lives to be normal and happy and safe. And when you place very aggressive or self-injurious kids in a home</p>

	<p>with those children, you now sacrifice a path for them and their resiliency gets further tested. So you may actually damage those children to a point that's unconscionable in my mind. For the children that are severely -- that have severe problems, either emotional, they're severely depressed, they're self-injurious, the basic kids if they're older and larger can sometimes victimize those children. So you always have to be conscious when you're running substitute care, a place for these hurt children, of what the mix is and what are you asking people to do." (Richter Direct, 15:16-18:4)</p>
<p>12.05.14 Richter Direct, at 24:6-25</p>	<p>Q "Did you make findings with respect to the mix of service levels within Texas foster group homes?" A "Yes. I looked at the number of homes that had a basic specialized -- some combination of basic, specialized and moderate. And I found that 89 percent of the homes with seven or more children in them had mixed service levels." Q "Eighty-nine percent." A "Yes." Q "Was that significant to you in assessing this foster group home model in Texas?" A "Yes." Q "How so?" A "It scared me." Q "Why?" A "You're talking 7 to 12 children to begin with. This is the number of -- within the 7 to 12 children, so this 89 percent is very, very high. The potential for a child-on-child abuse for caregiver error or fatigue or lapse is significant to me." (Richter Direct at 24:6-25).</p>
<p>12.03.14 Carpenter Direct, at 25:14-27:03</p>	<p>Q "Now, the youth that you work -- that are your clients, have they been in both RTCs and other GRs, other Group Residential operations as well as foster group homes?" A "Yes." Q "And have you heard stories among these children of how the incidents that they had in these group settings, these group living arrangements?" A "Yeah. The problem with a group home is that --" Q "Are you talking about a foster group home --" A "Right." Q "-- that kind of middle area?" A "The middle area that -- yeah, where there's not staff but there's a large amount of children and there's a mixture of children. The problem --" Q "'Mixture' meaning what?" A "You have -- you can have older children mixed with young kids." Q "Boys and girls?" A "You can have kids with mental issues mixed with, you know, basic-care kids." Q "Boys and girls?" A "Yes." Q "Boys and boys?" A "Right." Q "And the problem --" A "And so that's just a recipe for disaster. I mean, there's just -- there's bullying that goes on. There's, you know, sexual abuse. There's -- there's just -- it's just -- it's a recipe for disaster." Q "Do you think there's anything safe about having this category of group homes with this mix of children of different ages, different genders, different service needs all mixed together with a -- with no professional supervision, no 24-hour supervision?" A "I don't think it's a good idea." Q "Do you think it's a safe situation?" A "No, I do not." Q "Do you think it puts these children at an unreasonable risk of harm?" A "Yes, I do." (Carpenter Direct, 25:14-27:03)</p>

<p>12.04.14 Sharp Direct, at 172:8-173:8</p>	<p>Q “And were you aware of instances in which other foster youth were abused or sexually assaulted by other youth?” A “Yeah, that’s a common thing in the bigger homes. Maybe not so much in foster homes where there’s just one or two kids but when there’s lots of kids, that happens a lot, not able to watch everyone and, you know, a lot of the group homes have a variety of children, children who are at different stages in dealing with their trauma. Some of them have behaviors that are a little bit more severe than others and it’s difficult to watch everyone and so that happens a lot. I stayed at a group home in White House, Texas where we were -- foster kids were in one part of the house and the parents and their biological children were in another part and there was a young man who stayed in the room with us. He was sexually abused almost every night by one of the bigger boys in the home who was on the top bunk and he was on the lower bunk. And this happened constantly and nothing was ever done about it.” Q “And how old was the younger boy?” A “I don’t know. He was really small. I think he was maybe disabled. He had a problem with his leg. I’d have to say maybe 13, maybe even 12 and the older boy was, like, 14, 15, might even have been 16. He was a big guy.” Q And where were the foster --” THE COURT: “Was this in a foster group home?” THE WITNESS: “Yes, ma’am.” (Sharp Direct, 172:8- 173:8)</p>
<p>12.04.14 Sharp Direct, at 174:1-175:23</p>	<p>Q “You said you’d been in a number -- maybe ten, as many as ten foster group homes. How do the conditions in those places vary?” A “I don’t think there were any good foster group homes. I don’t think you can give children the time and attention they need, particularly children who have experienced some type of trauma, which all children in foster care have. Whenever you have ten-plus kids in a home and you tend to their only their very basic needs and you put them all in one room and you segregate them from everyone else, that’s not a way to treat young people and that certainly isn’t a way to help them address the problems that they’re dealing with. Most of these homes, you know, you eat -- you know, your access to the fridge is restricted. I stayed in homes where there were locks on the fridge, I mean, literally so the foster children couldn’t get into the homes. You have separate eating areas, separate living quarters, separate play areas and this is common and so you know you’re not a part of the family. You know that you’re -- you don’t belong and it’s not a good condition to live in at all.” Q “What kind of supervision generally was available in the foster group homes?” A “Most of the homes that I stayed in had maybe one or two people. Sometimes they were couples -- a couple -- or a couple. Sometimes -- I stayed in a couple where there was one caregiver and then they hired another or it was a friend that also was a caregiver but usually it was just one or two people watching, you know, ten-plus kids.” Q “And was there supervision at night?” A “I don’t think so. I think they went to bed at night. Certainly we had bedtimes and we were supposed to be in bed but that’s when things happened, at night.” Q “When the assaults took place?” A “Oh, yeah.” Q “What were the homes like physically? Were they like a part of the house? Were they in -- well, you talked a little bit about a separate building --” A “Yeah, they --” Q “-- but were they in the garage? What were they like?” A “They were separate. A lot of them were -- used to be garages. You could turn a</p>

	garage into a room real quick and put some bunk beds in it and put some kids in there but they were all separate. I don't ever recall being in a home where I was put in the middle of where the biological kids were at. I mean, it was always very apparent to me that this was not permanent, that this was not somewhere I was going to be forever and that this wasn't something that was going to last and that I didn't belong." (Sharp Direct, 174:1-175:23)
12.04.14 V. Miller Direct, at 89:13-90:4	Q "-- is it safe, Dr. Miller, in your opinion, or is it unsafe to have children of different ages, children of different genders, children of different service needs, children that may be related or complete strangers to each other in these group homes at night with no one awake to watch them? Is that safe or not?" A "That is not safe." Q "Is there any doubt in your mind about that, Dr. Miller?" A "No doubt in my mind." THE COURT: "So it's not an unreasonable risk of harm? It's just plain old not safe?" A "It's just plain old not safe." BY MR. YETTER: Q "Would you ever let one of your own children be in a setting like that, Dr. Miller?" A "Not in a million years." (V. Miller Direct, 89:13-90:4)
12.05.14 Richter Direct, at 31:2-11	Q "Based on the risk factors that you've identified, based on the utilization of foster group home trends or patterns that you've identified here today, based on the absence of the standards, have you formed an opinion here, Ms. Richter, as to the safety of foster group homes in the state of Texas?" A "I have." Q "What is your opinion?" A "These children are being placed at an unreasonable risk of harm and actual harms that I expected to see are occurring. I would not place a child in these homes." (Richter Direct, 31:2-11).
12.10.14 McNall Cross, at 25:8-19	THE COURT: "You don't think there's any risk of harm to children that are placed with strangers in a home -- in a group home with no nighttime supervision, where we've heard most of these incidents of sexual abuse and physical abuse occur, different needs, different levels of needs, different ages, and different genders, in adjoining bedrooms sometimes, you don't think there's a risk of harm?" THE WITNESS: "There is a risk of harm, but I also think that these --" THE COURT: "It's certainly a different risk of harm than siblings in the same household?" THE WITNESS: "Sometimes, yes." (McNall Cross, 25:8-19).
12.10.14 Wilson Direct, at 148:13-150:8	THE COURT: "Well, we've heard that in foster group homes from some of the witnesses who've been in them, been placed in them, that it's not unusual to have an age two-year-old with a seventeen-year-old." A "I heard that." THE COURT: "That array." A "I heard that." THE COURT: "And some with significantly different service levels, and children who have been victims of sexual abuse and physical abuse." A "I did hear that." THE COURT: "And that seems to me to possibly be a recipe for disaster, without 24-hour supervision." A "I think one has to be very cautious." THE COURT: "How cautious would you have to be to say that that is a risk?" A "May I also say, very honestly, that I believe there is risk in every placement." THE COURT: "Yeah, foster care placement, but not with children and their families." A "There's risk in every placement. And then the

	<p>degree of that risk is determined by the condition of each child and the parents and the home.” THE COURT: “What I just told you, if these are mixed in with --” A “Absolutely.” THE COURT: “-- physically abused, sexually abused children, different service needs, different ages, different genders.” A “And then you look at what you can do to mitigate that risk, and is there something that you can do to mitigate it.” THE COURT: “Yes, 24-hour-awake care might make a difference.” A “It could.” THE COURT: “I mean, we've heard day after day about what happens at the nighttime when these children are not supervised in these foster group homes; that that is when the children have told me, that are now grown, and that attorneys for children have told me, and former case workers have told me, that they're most at risk at that time; and that's when the sexual abuse and the physical abuse occurs. You've heard that?” A “I have heard that.” THE COURT: “You don't disagree with that, do you?” A “I don't disagree that that's often the case.” (Wilson Direct, 148:13-150:8)</p>
<p>12.03.14 Virgil Direct, at 204:18-205:20</p>	<p>Q “Okay. What kinds of things happened in the foster group home when the foster mother was not supervising the children?” A “In the first one or the second one?” Q “In the first one?” A “Well, in the first one there was one instance where we'd just help ourselves to whatever was in the kitchen and that's about it. There wasn't really anything.” Q “And what about in the second home?” A “In the second one when the foster mom was behind a closed door some of the girls would start fighting me and I wouldn't swing back, and I just let it -- take a beating really, and she wouldn't come out until she heard noise.” THE COURT: “And this is in the first one you stayed --” A “The second one.” THE COURT: “-- the second one, also a foster group home?” A “Yes. And at night when she was asleep some of the girls would sneak out and some of them would run away, some would go to their boyfriends. She normally didn't find out until later on. There was one incident that happened where I was waking up to get ready for school, I was rubbing my eyes walking to the restroom and I bumped into one of the girls and she turned around with a broken curling iron and hit me on the eye and then she proceeded to pick up a fan and swing at me, and I ran down to bang on the door of the foster mom and it 20 took her five minutes to respond.” (Virgil Direct, 204:18-205:20)</p>
<p>12.03.14 Jackson Direct, at 192:16-193:13</p>	<p>Q “Have you ever been in a foster group home?” A “Yeah, I've been in about six foster group homes all over Texas.” Q “And what has it been like to be in a foster group home?” A “That's one of the most unconscionable things to me just because of the different -- the different kids. Like one time I was in -- I was in a foster group home and there was four kids to a room. There was four beds in a room and this room wasn't -- I could stretch my arms across the room probably, but one of the kids in my room, he was 2, and there was another kid that was in seventh grade, but I was 16 -- maybe 15, I think I was 15, just turned 16, and then there was a kid, he was 19 in the room. So it causes risks, and I actually seen it happen in front of me where one of the kids that were older, he hit one of the little boys because he kept messing with him and he went to jail.” THE COURT: “What do you mean ‘messing with him?’” A “Like just annoying him, you know, 2-year-</p>

	<p>olds, they're very annoying sometimes. But -- so the kid-- the 16-year-old boy hit the 2-year-old and he got taken off to jail, and that was just something that could have been totally avoided. They would have never been in the same home or in the same room or in the same situation, so.” (Jackson Direct, 192:16-193:13)</p>
<p>12.03.14 Jackson Direct, at 194:15-24</p>	<p>Q “And did most or all of the foster group homes have a mix of children of different ages?” A “Most of them did, and some of them that had kids with mental illness or some of them were in wheelchairs, and I just happened to be there.” Q “And was there -- how much fighting was there in the foster group homes?” A “A lot. A lot.” THE COURT: “Physical fighting?” A “Physical fighting.” (Jackson Direct, 194:15-24)</p>
<p>12.11.14 Burstain Cross, at 60:4-12</p>	<p>Q “There are some very important pieces of data that the State doesn't track, does it?” A “I'm sorry; I don't know what you mean by that.” Q “I'll make it clear. The State does not track in a centralized way how many biological or adoptive children are in foster group homes, does it?” A “There is no report that -- about how many biological -- there is no, like, data warehouse report, you're correct, on how many biological children there are in foster group homes.” (Burstain Cross, 60:4-12).</p>
<p>12.05.14 Richter Direct, at 25:1- 26:18</p>	<p>Q “Now, Ms. Richter, you've testified about the number or percentage of foster group homes that you found to have seven or more children in them?” A “Uh-huh.” Q “And what was that percentage again?” A “That was 48 percent.” Q “In calculating that 48 percent or deriving at it, were you able to determine whether that included or excluded biological or adoptive children that might also be present in that foster group home?” A “No, those are only foster children. So because they don't count biological and adopted children, I asked for that data. It wasn't available.” THE COURT: “Okay, so wait a minute. The State has told me that they have a limit with foster group homes, right? And that includes the biological and foster -- and adopted children of the parents.” MS. BARTOSZ: “That's right, your Honor.” THE COURT: “Right?” A “Yes, ma'am.” THE COURT: “But apparently they don't track what children the foster parents have, so they don't know the limits.” A “That's my understanding, your Honor.” THE COURT: “Because they could not provide you with a number of foster parent actual children in the home.” A “Correct.” THE COURT: “So if they don't have it, they don't know how many kids are in the home.” A “I can't speak to that, but it's not on any report and I was not provided the information.” BY MS. BARTOSZ: Q “Ms. Richter, based on your experience in the management of a state child welfare system, is it important to track the actual number of children placed into homes?” A “It's critical.” Q “Why?” A “Well, if you have rules and regs that are based upon what you believe to be the best practice and you have licensing standards, you have an obligation to ensure that those standards are being met. Whether they are good standards or bad standards, they are law generally; and you should be</p>

	obeying the law. So tracking that is extremely important.” (Richter Direct, 25:1-26:18)
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Item 31: Further, the State shall immediately stop placing PMC foster children in unsafe placements, which include foster group homes that lack 24-hour awake-night supervision. Foster group homes that immediately require 24-hour awake-night supervision may continue to operate while the Special Master and the State craft and enforce the Implementation Plan.

There is extensive evidentiary support in the record for the various reforms recommended by the Special Masters to address this Item in the Court’s Memorandum Opinion and Verdict including, but not limited to, the following:

Documents	Citations
PX2041, Mary Dee Richter, M.S.Ed., “The Use of Foster Group Homes by the Texas Department of Family and Protective Services,” at 16-17	Information is confidential, filed under seal, or otherwise covered by Amended Protective Order. (Docket Entry 138).
PX2041, Mary Dee Richter, M.S.Ed., “The Use of Foster Group Homes by the Texas Department of Family and Protective Services,” at 22	Information is confidential, filed under seal, or otherwise covered by Amended Protective Order. (Docket Entry 138).
PX2041, Mary Dee Richter, M.S.Ed., “The Use of Foster	Information is confidential, filed under seal, or otherwise covered by Amended Protective Order. (Docket Entry 138).

<p>Group Homes by the Texas Department of Family and Protective Services,” at 23</p>	
<p>12.05.14 Richter Direct, at 31:2-11</p>	<p>Q “Based on the risk factors that you’ve identified, based on the utilization of foster group home trends or patterns that you’ve identified here today, based on the absence of the standards, have you formed an opinion here, Ms. Richter, as to the safety of foster group homes in the state of Texas?” A “I have.” Q “What is your opinion?” A “These children are being placed at an unreasonable risk of harm and actual harms that I expected to see are occurring. I would not place a child in these homes.” (Richter Direct, 31:2-11)</p>