

Adult Protective Services

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Estimates put the number of abused and neglected adults who are elderly or have disabilities at more than 1 million nationwide each year, and the numbers are growing.

To meet this rising need in Texas, the Adult Protective Services (APS) program is designed to:

- ◆ receive and investigate community-based reports of abuse, neglect, and exploitation of people who are elderly or have disabilities and, as appropriate in confirmed cases, provide or arrange for services to alleviate the maltreatment;
- ◆ receive and investigate reports of abuse, neglect, and exploitation in schools, hospitals, and centers operated by the Texas Department of Mental Health and Mental Retardation (TxMHMR) and in facilities with which those institutions contract; and
- ◆ provide review and oversight of investigations conducted in community mental health and mental retardation centers and private psychiatric hospitals, as well as in facilities that are regulated by other state agencies. This oversight responsibility includes accepting complaints about other agencies' investigations and reinvestigating them as appropriate.

In the mid-1970s, Congress enacted Title XX of the Social Security Act to strengthen the delivery of social services in the states. In order to receive a share of the Title XX funds, states were required to provide protective services to children and adults who are elderly or have disabilities who are being abused, neglected, or exploited. At this time, protective services for adults were provided by DHS caseworkers through the Community Care for the Aged, Blind, and Disabled program. Over time, this program title changed to Community Care for the Aged and Disabled, or CCAD.

In 1981, the Texas Legislature passed Chapter 48 of the Texas Human Resource Code (HRC 48) to establish the state authority and responsibility to investigate abuse, neglect, or exploitation of people age 65 and older. The statute made it mandatory for any person "having reasonable cause to believe that an elderly person is in a state of abuse, exploitation, or neglect" to report the occurrence to DHS, whose staff would receive and investigate the allegations. However, since no funds were appropriated for this task, protective services for adults age 65 and older continued to be provided through the CCAD program. The provision of protective services for adults with disabilities was not addressed in this initial legislation, which stipulated also that the program's management was to be transferred to the Texas Department on Aging (TDoA) in September 1983.

During the 1983 legislative session, HRC 48 was amended to include protection of adults age 18 to 64 who have disabilities. In addition, legislators deleted the passage stipulating the transfer of responsibility for adult protection to TDoA and passed a concurrent resolution directing Texas Department of Human Services (DHS) to include the receiving of reports of adult abuse through the Child Protective Services (CPS) hotline.

DHS was further directed to conduct a public awareness campaign about adult abuse, and the agency's board approved an internal transfer of funds to support the emerging program. Services continued to be delivered through workers who carried combined CCAD and adult protective services case-loads, with specialization only in major metropolitan areas.

The following biennium brought to adult protective services its first program-specific appropriation, effective in fiscal year 1985. For the first time, money was available to purchase services to meet specific client needs. Before this time, when clients had needs that couldn't be met through other DHS programs, workers had to depend on their own or community resources, which were often quite limited.

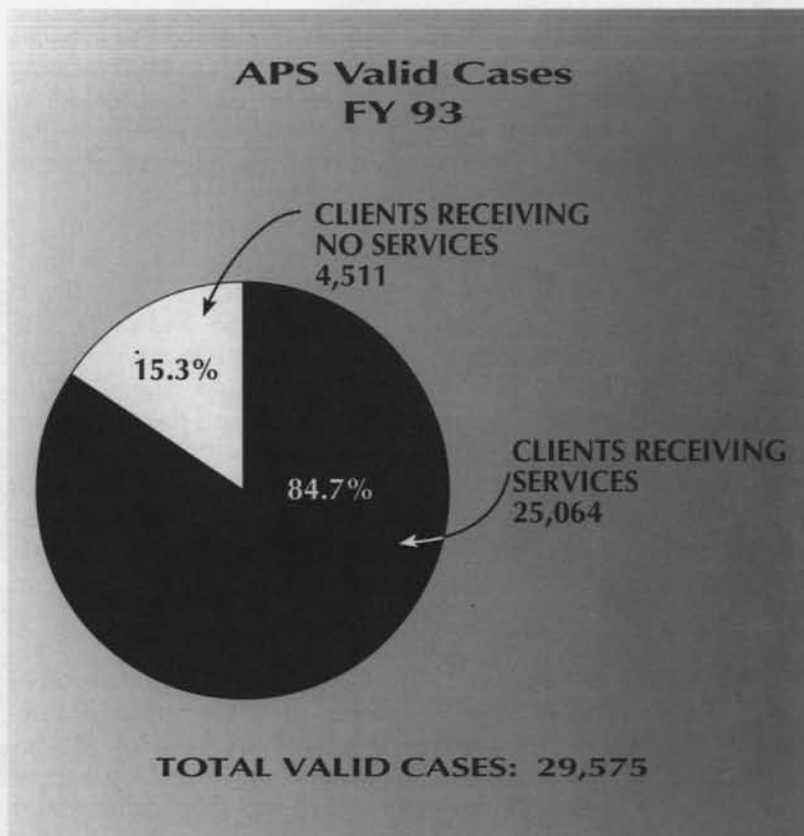
Concurrently, a move was begun to separate from CCAD the responsibility for protecting adults, and Adult Protective Services as a separate program at DHS state office was officially created. Specialized units of APS caseworkers were formed in the regions. The program's administration continued under the umbrella of Services to Aged and Disabled, which also consisted of the CCAD and Medicaid Eligibility (ME) programs.

Major program changes occurred in fiscal year 1987 when Chapter 48 was amended to clarify that investigations of abuse in facilities regulated by state agencies were to be the responsibility of the respective regulatory agency.

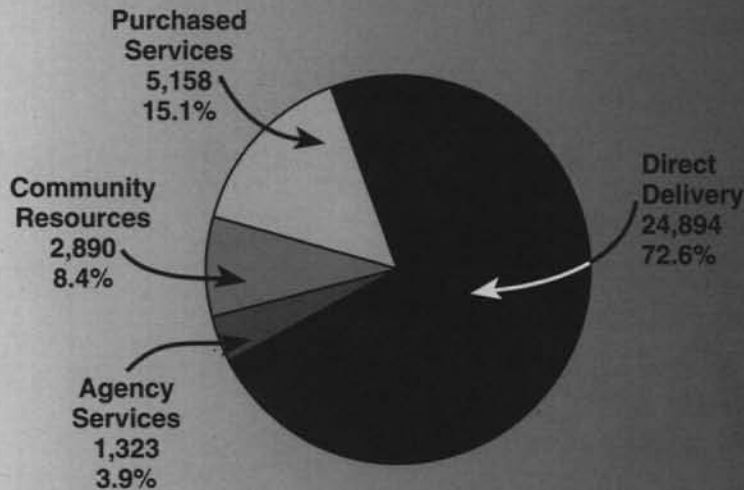
However, the revision placed APS in an oversight role with responsibility for accepting complaints about other agencies' investigations, reinvestigating when necessary, and reporting annually on the incidence of abuse and on trends and systemic problems in facilities. The amendments also instituted a penalty for failure to report abuse.

In fiscal year 1991, after 10 years of manually collecting and reporting program statistics, an APS data base was implemented. This management information system gave the program the ability to capture and quickly report a wide assortment of data about the APS caseload.

Also in 1991, the passage of House Bill 7 by the Texas Legislature foreshadowed major alterations in the structure of human services. APS was among the programs affected by the government reorganization and staff spent the following fiscal



APS Services Provided to Clients FY 93



year preparing for changes that went into effect Sept. 1, 1992. Combining regional management in several cases and re-structuring to minimize layers of middle management, APS made the transition from the Texas Department of Human Services (DHS) to PRS.

In 1993, the 73rd Texas Legislature instructed APS to assume guardianship of people with severe disabilities who leave CPS' conservatorship at age 18. The challenge of this new assignment is not only to provide guardians, but to find appropriate resources for the long-term care of these individuals.

Another bill passed during that session removed barriers to getting the information needed to conduct protective services investigations. These barriers have been particularly troublesome in financial exploitation investigations. HRC 48 was amended to state that "the department shall have access to any records or documents, including client-identifying information, necessary to the performance of duties required under this Chapter."

If access is denied, then the law stipulates that PRS may petition the court for an order to get the record or document, and, upon good cause shown, the court can then order the person to allow the investigating agency to get the record or document.

Community-based Investigations and Services

Community-based APS staff provide services without regard to clients' income to people age 65 and older, people age 18 and older who have disabilities, and people younger than age 18 who are mentally or physically incapacitated and have been declared legal adults.

The program is based on the following philosophy:

- ◆ Cases are resolved in a manner that is client focused, individualized, and based on social work methods as opposed to approaches based in criminal prosecution or law enforcement.

- ◆ Vulnerable adults are the program's primary clients—not communities or families.
- ◆ Clients are presumed to be mentally competent and in control of decision making until facts prove otherwise.
- ◆ Clients will actively participate in defining their problems and deciding the most appropriate course of action to resolve those problems.
- ◆ Clients will exercise freedom of choice and the right to refuse services so long as they have the capacity to understand the consequences of their actions.
- ◆ Service alternatives that are pursued will be the least restrictive possible for clients; more intrusive remedies, such as guardianship or institutionalization, will be a last resort.
- ◆ When legal remedies are unavoidable, clients have a right to an attorney *ad litem* to represent their interests in court.

Typically, among the spectrum of APS clients are people who are:

- ◆ age 18 and older who have disabilities;
- ◆ age 65 or older;
- ◆ isolated;



- ◆ lacking an "able" caregiver;
- ◆ ill;
- ◆ impoverished;
- ◆ experiencing substance abuse or mental illness in family dynamics;
- ◆ dependent upon an adult child or vice versa; or
- ◆ older adults caring for very old family members.

HRC 48 establishes the baseline for the APS program in Texas. This state law provides for the following community-based investigations and services:

- ◆ mandatory reporting of abuse, neglect, and exploitation of elderly persons and adults who are disabled;
- ◆ receipt and investigation of all reports (unless patently false);
- ◆ initiation of investigations within 24 hours of receipt of report;

- ◆ assessment of the adult's capacity to understand the situation and the degree of danger it presents;
- ◆ notification of law enforcement agencies of all valid cases of physical abuse and caregiver neglect;
- ◆ provision or arrangement of the services needed to prevent or alleviate maltreatment;

HRC 48 also includes the following definitions of maltreatment:

Abuse is defined as "willful infliction of injury, unreasonable confinement, or cruel punishment" and includes:

- ◆ scratches, cuts, bruises, and burns;
- ◆ welts, scalp injury, and gag marks;
- ◆ sprains, punctures, broken bones, and bedsores;
- ◆ confinement;
- ◆ rape and other forms of sexual abuse; and
- ◆ verbal and psychological abuse.

Neglect is defined as "the failure to provide for one's self the goods or services which are necessary to avoid physical harm, mental anguish, or mental illness, or the failure of a caretaker to provide such goods or services" and includes:

- ◆ malnourishment and dehydration;
- ◆ over- and under-medication;
- ◆ lack of heat, running water, or electricity;
- ◆ unsanitary living conditions;
- ◆ lack of medical care; and
- ◆ lack of personal hygiene or clothes.

Exploitation is defined as "the illegal or improper act or process of using the resources of an elderly or disabled person for monetary or personal benefit" and includes:

- ◆ taking Social Security or Supplemental Security Income (SSI) checks;
- ◆ abusing joint checking accounts; and
- ◆ taking property or other resources.

- ◆ honoring individual's right to self-determination;
- ◆ using the least restrictive alternative in the provision of protective services;
- ◆ authority to seek court orders when necessary to gain access to the individual, prevent interference with the provision of voluntary protective services, or provide emergency protective services;
- ◆ authority to initiate emergency removal without a court order after hours and on holidays;
- ◆ confidentiality of case records; and
- ◆ review and oversight of investigations conducted by other state agencies.

When reports of maltreatment are received, they are assigned priorities that determine how soon alleged victims will be seen by APS caseworkers.

Priority I reports allege that victims are in a state of serious harm or in danger of death from abuse or neglect. These clients must be seen within 24 hours of staff receiving the report.

Priority II reports allege that victims are abused, neglected, or exploited, and as a result are at risk of serious harm. These clients must be seen within three days of staff receiving the report.

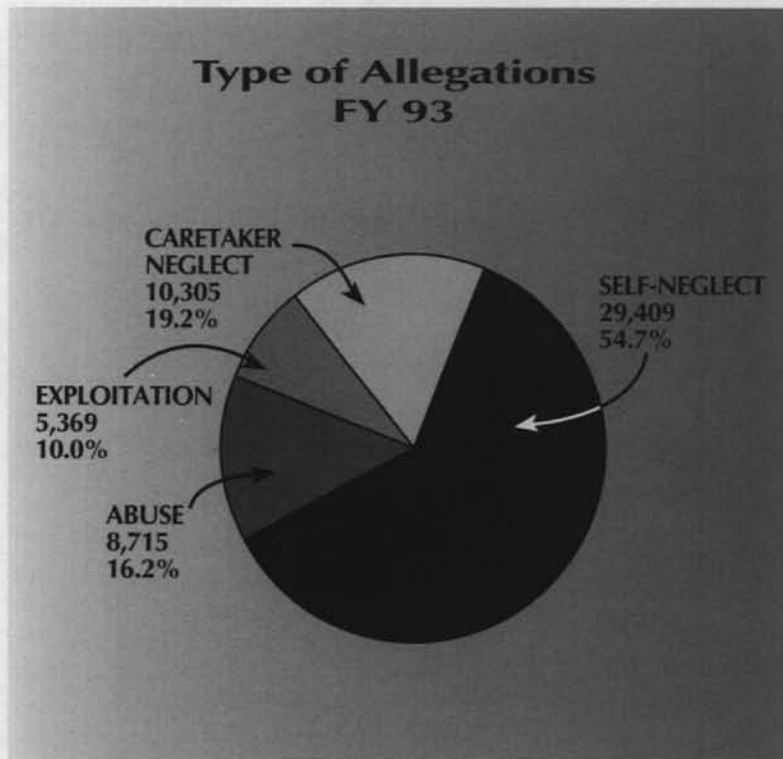
Priority III reports include all other reports alleging that victims are in a state of abuse or neglect. These clients must be seen within seven days of staff receiving the report.

Priority IV reports allege exploitation when there is no danger of imminent impoverishment or deprivation of basic needs. These client must be seen within 14 days of staff receiving the report.

During investigations, caseworkers determine:

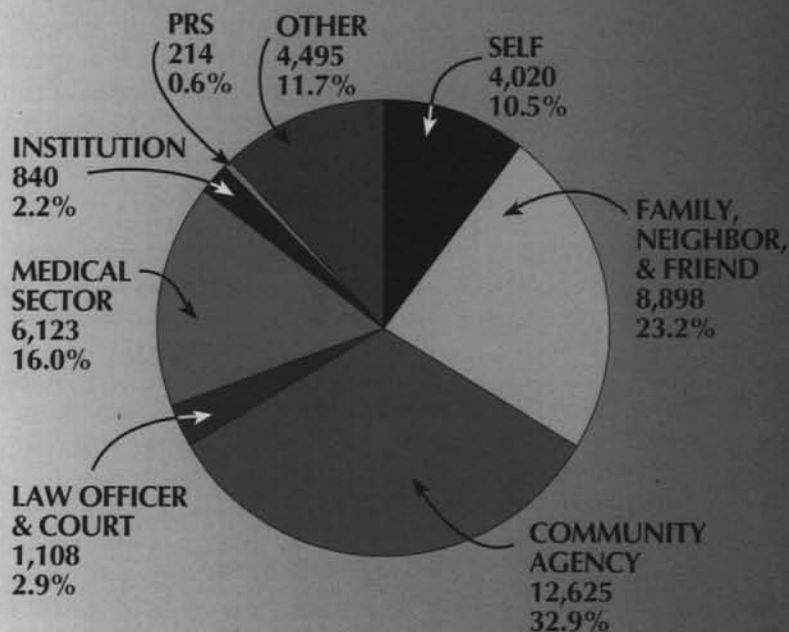
- ◆ whether the allegations of abuse, neglect, or exploitation are valid;
- ◆ whether clients need protective services;
- ◆ what services are needed;
- ◆ whether caregivers are willing to provide services or would agree to the provision of services;
- ◆ whether clients are capable of obtaining services for themselves and can bear the cost or whether they may be eligible for services from PRS or other state agencies;
- ◆ whether clients desire the service; and
- ◆ other pertinent information about clients and their situations.

What APS can accomplish in a given case is determined by many factors, including the skill of the worker, the client's capacity and willingness to accept help, the client's economic and social resources, and other resources in the community. When other resources can't be located, the worker may access emergency client services funds to solve a particular client's problem.



Examples of short-term interventions paid for with emergency client services funds include personal care, heavy housecleaning, prescription medication, medical supplies and equipment, clothing, food, sundries, emergency shelter, medical and psychiatric assessment, critical transportation services, restoration of utilities, and minor home repair. The effectiveness of APS casework is severely hampered when emergency client services funds are lacking because finding and developing alternative community resources is very time-consuming, if not impossible. This is especially so when caseloads are large. Often, the maltreatment cannot be alleviated if alternatives are not available.

Source of Referral FY 93



Intervening in the abuse of vulnerable adults requires an array of human services that often are in short supply. APS staff have identified the following resources that, if more fully developed and widely available, would make a great difference in the lives of clients and their families:

- ◆ adult day care;
- ◆ adult foster homes;
- ◆ affordable housing;
- ◆ support services for caregivers;
- ◆ financial management services;
- ◆ funding to make homes accessible;
- ◆ geriatricians (particularly in non-metropolitan areas);

- ◆ guardianship services;
- ◆ hospice;
- ◆ in-home chore and personal care services;
- ◆ mental health services;
- ◆ representative payees;
- ◆ respite for caregivers; and
- ◆ transportation.

In fiscal year 1993, \$15.6 million was spent on community-based investigations and direct delivery, and about \$5 million was spent on purchased services.

During fiscal year 1993, APS received and initiated investigations on 38,323 reports, a 27 percent increase over the last fiscal year. In 82 percent of the completed investigations, clients were found to be abused, neglected, or exploited and therefore in need of protective services. Of these confirmed cases, 85 percent received some type of service beyond investigation, either direct or purchased or both. During the year, 5,158 clients, or 17 percent of the caseload, received purchased services. Despite these numbers, it is estimated that only 23 percent of the total population of victims, thought to number 166,310 in Texas, were reported to APS this year.

Although a manageable caseload in APS is considered to be 24 cases a month, in fiscal year 1993 the caseload averaged 41 cases per month per worker. Program management, therefore, continued to explore ways to enable workers to do more with less. The use of a shortened documentation form was extended to a broader range of cases; more emphasis was placed on training and evaluating workers on their interactions with clients, rather than on written casework reports; and new technologies were tapped as mobile phones were more widely deployed and the concept of statewide intake was tested.

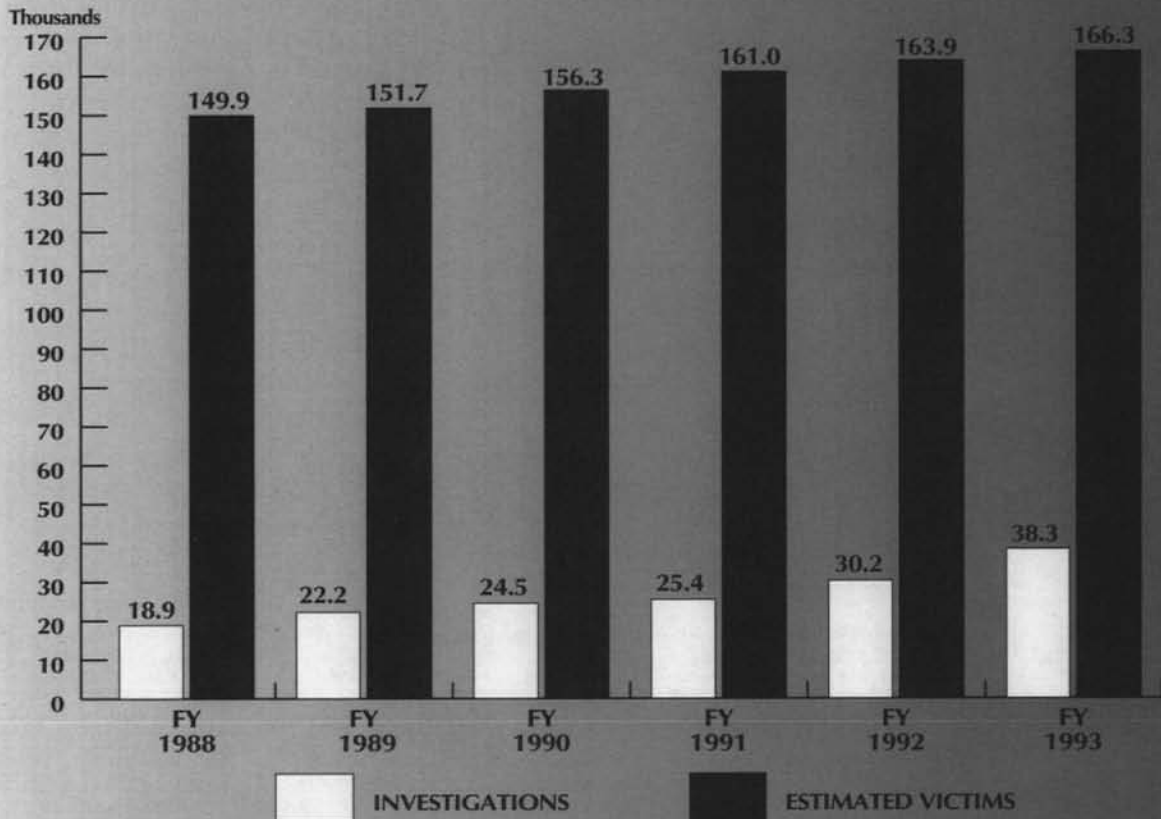
Although these measures have brought some relief to over-burdened staff, the demographic realities of an aging population continue to drive the number of cases upward. Inevitably, the number of frail elders and adults with disabilities

will increase each year, and their needs will be affected by societal conditions beyond our control, such as substance abuse, homelessness, and unemployment. Concurrently, internal problems related to turnover, worker burnout, liability, span of control, staff development, and worker safety will continue to increase in magnitude.

In order to manage the workload with existing staff, the program is facing hard choices in the next biennium, such as making sweeping changes to current program standards, eliminating services to lower priority cases, extending the response time to calls for assistance, and severely cutting back all public education efforts. These measures are difficult to contemplate because staff know that many of the lower-priority cases that are turned away will later re-enter the system as higher priority situations. Such cases will pose more serious threats to victims' lives and safety and consume even more staff time and public and private resources to resolve.



Cases Reported vs. Estimated Population of Victims



Facility-based Investigations

On Sept. 1, 1992, the TxMHMR functions, programs, and activities relating to investigations of abuse and neglect were transferred to PRS and placed within the APS program. These included:

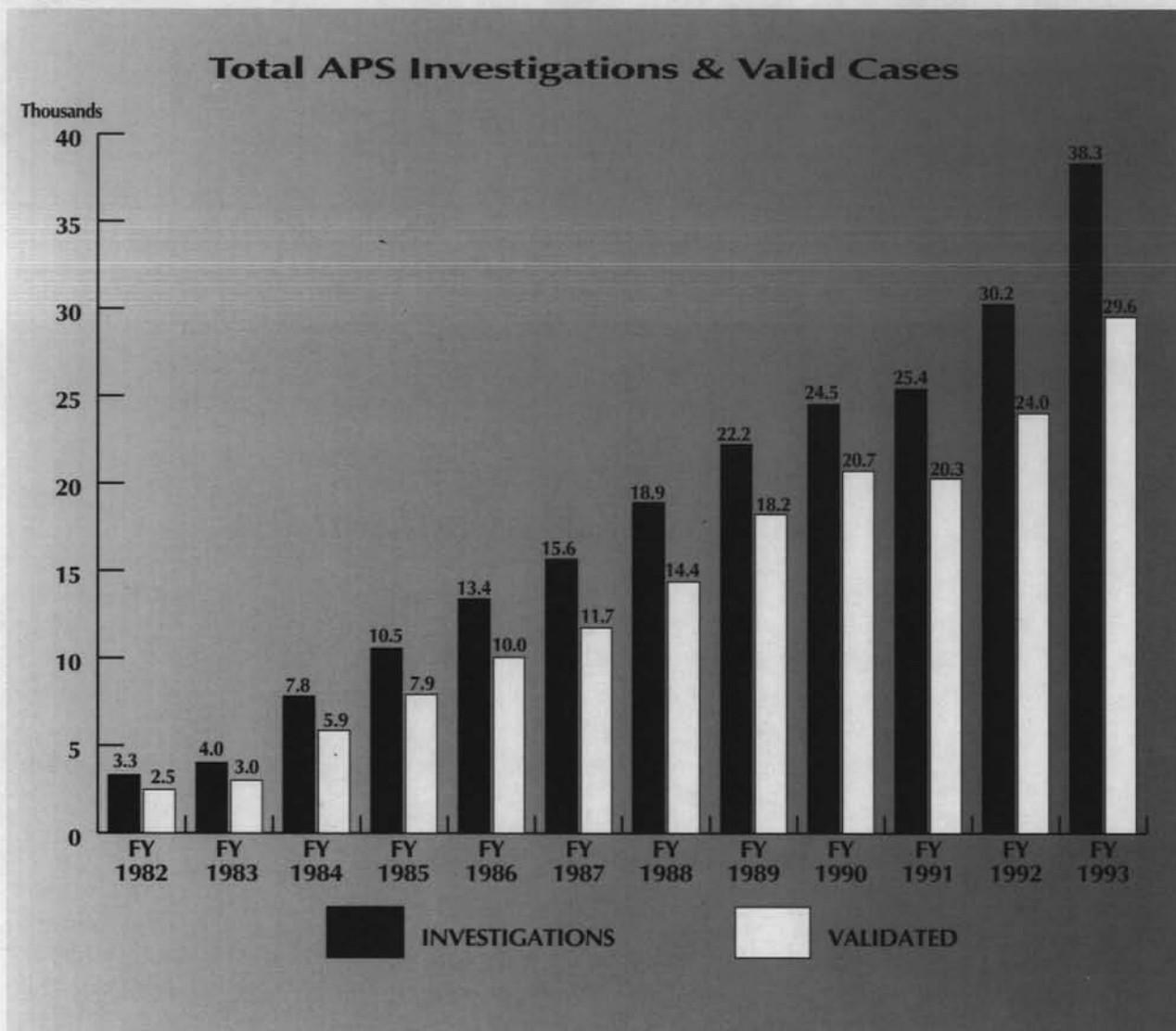
- ◆ the responsibility for investigating abuse and neglect in TxMHMR state schools, state hospitals, state centers, and their contractors;
- ◆ oversight of investigations in community centers and private psychiatric hospitals; and
- ◆ rule-making authority regarding investigations in state facilities, community centers, and private psychiatric hospitals.

Prior to House Bill 7's implementation, facilities had one or more abuse investigators and an abuse and neglect committee who were employed by and reported to the head of the facility. State office personnel were housed in the TxMHMR Office of Consumer Services and Rights Protection in Austin.

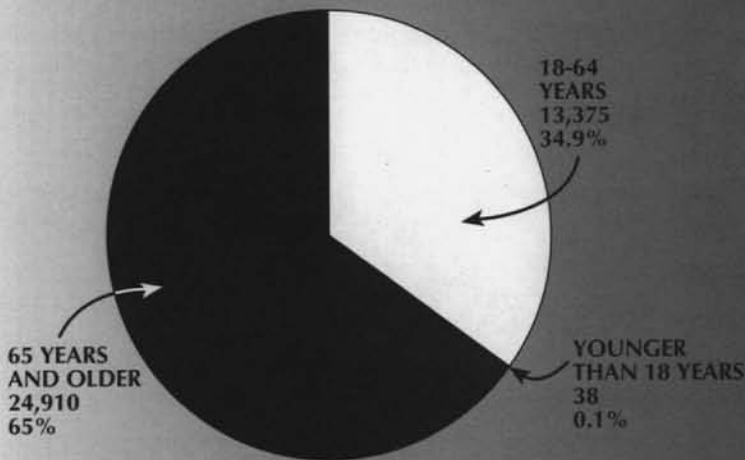
Incorporating the new staff and responsibilities into APS operations was a primary accomplishment of fiscal year 1993. Thirty-nine state facility investigators, two supervisors, and six clerical staff were relocated from TxMHMR facilities to PRS sites. APS staff were assigned to facilities in Beaumont, Amarillo, and Laredo, where no facility investigators had transferred to PRS. Five state office personnel were relocated to the PRS state office, which is located at the John H. Winters Human Services Complex in Austin.

In addition, during the year:

- ◆ New investigators and community-based staff who provide back-up received contracted training.
- ◆ Cross-program curricula were developed in house and provided to facility investigators, APS regional directors, supervisors, and workers.



Ages of APS Clients



- ◆ Facility investigators were moved under the regional supervisory structure.
- ◆ Standardized performance evaluation plans were developed for all direct delivery staff.
- ◆ An internal work group, the Facility Investigations Program Improvement Committee, began meeting on a quarterly basis to explore ways of improving the facility investigation process.
- ◆ A case reading system was developed to monitor the quality of facility investigations.
- ◆ APS program staff met regularly with TxMHMR Central Office staff to discuss any problems or concerns with facility investigations.
- ◆ APS program staff met regularly with representatives of the Texas Council of Community TxMHMR Centers to discuss community center investigation issues.

Facility investigators must be available to each facility to receive allegations 24 hours a day. Upon receiving an allegation of abuse or neglect, the facility investigator:

- ◆ immediately notifies the head of the facility or designee;
- ◆ notifies law enforcement within one hour of abuse-related allegations of a criminal nature;
- ◆ begins investigating immediately (i.e., interviews complainant, ensures safety of victim);
- ◆ interviews and gathers written statements from the victim, the accused, witnesses, and others who can furnish information;
- ◆ ensures photographs are taken of abuse-related injuries within 24 hours;
- ◆ completes the investigation within 10 working days and submits it to the head of the facility and law enforcement (if previously notified); and
- ◆ enters data into the management information system.

In fiscal year 1993, staff conducted 4,408 investigations in TxMHMR facilities, as compared to 3,484 investigations the previous year. Of these, 12.7 percent were classified as "unfounded," meaning that the report, after a preliminary assessment, was judged to be false and did not warrant further investigation. Of the remaining cases, 23.2 percent were confirmed, 68.3 per-

cent were unconfirmed, and another 8.5 percent were inconclusive. The expenditures for facility investigations for fiscal year 1993 were about \$1.8 million.

In the coming fiscal year, major goals for facility investigations include seeking input from parties with an interest in the abuse and neglect rules, re-writing the abuse and neglect rules for state facilities and community TxMHMR centers, and familiarizing facility investigators with the role of APS in community investigations.

Role of APS in Facility Investigations

Program	Action	APS role
<ul style="list-style-type: none"> ◆ State hospitals ◆ State schools ◆ State centers and their contractors ◆ Community Service programs 	<ul style="list-style-type: none"> ◆ Allegations are reported to APS. 	<ul style="list-style-type: none"> ◆ Conduct investigations.
<ul style="list-style-type: none"> ◆ Community mental health and mental retardation centers and their contractors ◆ Outreach programs 	<ul style="list-style-type: none"> ◆ Community center investigates. 	<ul style="list-style-type: none"> ◆ Provide oversight.
<ul style="list-style-type: none"> ◆ Private psychiatric hospitals 	<ul style="list-style-type: none"> ◆ Hospital investigates. 	<ul style="list-style-type: none"> ◆ Receive verbal notification within 48 hours. ◆ Provide oversight. ◆ Conduct on-site investigation when warranted.

Review and Oversight of Other State Agencies' Investigations

The agencies with which APS entered into annual memoranda of understanding for the purpose of monitoring facilities that are regulated by other state agencies were:

- the Texas Commission on Alcohol and Drug Abuse;
- the Texas Commission for the Blind;
- the Texas Commission for the Deaf;
- the Texas Department of Health;
- the Texas Education Agency;
- the Texas School for the Blind;
- the Texas School for the Deaf; and
- the Texas Rehabilitation Commission.

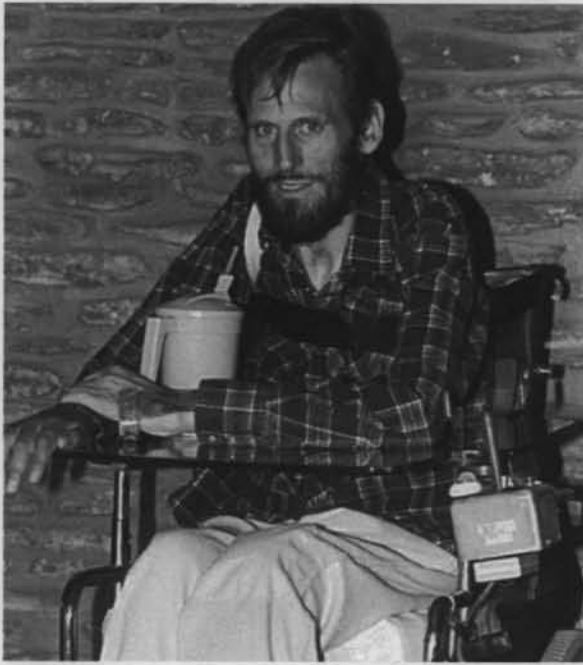
This oversight role requires that APS must:

- ◆ review other state agencies' rules to ensure uniformity and compliance with HRC 48;
- ◆ review other agencies' investigations;
- ◆ receive and investigate complaints regarding other agencies' investigations;
- ◆ collect and analyze data; and
- ◆ prepare an annual report with an analysis of trends, incidence, and systemic problems related to abuse in facilities.

Investigations in Community Mental Health and Mental Retardation Centers

In fiscal year 1993, APS staff provided oversight for investigations conducted in the 35 community mental health and mental retardation centers across Texas. Each center is governed by a local board of trustees. TxMHMR contracts with centers to provide a specific array of inpatient and outpatient services to people with mental illness and mental retardation. Although community centers receive funding from a variety of sources, the majority of financial support comes from TxMHMR.

The intent of House Bill 7 as it pertains to investigations in community centers is unclear, and it is possible that PRS' role regarding community centers will change in the future. The agency is working with the various stakeholders to refine and further define roles, responsibilities, and procedures regarding these investigations.



In fiscal year 1993, each center was responsible for establishing a mechanism for reporting and investigating allegations of abuse and neglect in its programs and those of its contractors. This mechanism was to include:

- ◆ the delineation of reporting responsibility of employees, contractors, and agents to the executive director;
 - ◆ procedures for the executive director or designee to promptly and objectively investigate each alleged case;
 - ◆ provisions for reporting criminal acts to law enforcement;
 - ◆ provisions for reporting the allegation to the client's parents, guardian, or family within 24 hours;
- ◆ submitting written investigative reports to the state office within 10 days of initial allegation; and
 - ◆ procedures for implementing sufficient disciplinary action.

APS state office oversight included:

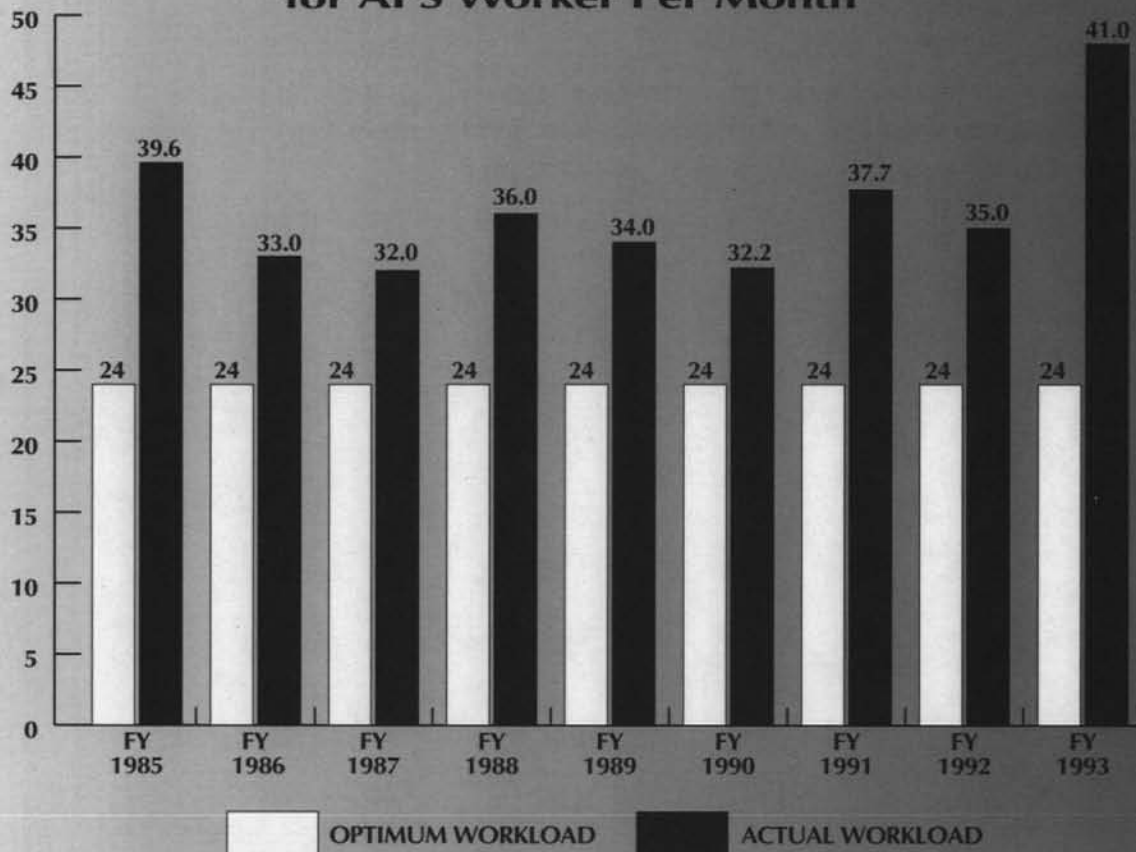
- ◆ reviewing investigations and making recommendations to centers for corrective and preventive actions;
- ◆ determining when to close investigations;
- ◆ forwarding cases involving children to the Office of Youth Care Investigations in the Health and Human Services Commission; and
- ◆ forwarding cases involving registered nurses and medical doctors to the respective boards of examiners.

Investigations in Private Psychiatric Hospitals

During fiscal year 1993, APS state office oversight also included abuse and neglect investigations in the 79 free-standing private psychiatric hospitals that are licensed by TxMHMR. Each hospital was responsible for establishing a mechanism for reporting and investigating alleged cases of abuse and neglect. This mechanism was to include:

- ◆ delineation of the responsibilities of each employee, contractor, or agent;
- ◆ procedures for administrators or designees to promptly and objectively investigate each alleged case of abuse or neglect;
- ◆ procedures for completing the investigation within five working days of receiving the allegation;
- ◆ provisions for implementing disciplinary action when abuse was confirmed; and

Average Workload for APS Worker Per Month



- ◆ provisions for reporting suspected cases in accordance with appropriate laws as follows:
 - notification of APS state office within 48 hours of receiving an allegation;
 - conduct of investigations by state office when warranted;
 - reporting of criminal acts to law enforcement agencies;
 - notification to the agency's Child-care Licensing (CCL) program if licensed to provide services to children.

State office personnel provided oversight for investigations conducted by hospital staff by:

- ◆ providing technical assistance during the investigative process;
- ◆ reviewing the investigative reports;
- ◆ contacting facilities if additional information was needed; and
- ◆ determining when to close all cases.

Legislation passed in the 1993 legislative session moved the licensure of private psychiatric hospitals from TxMHMR to the Texas Department of Health, effective Sept. 1, 1993.