



Adult Protective Services





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Adult Protective Services (APS) receives and investigates reports of abuse, neglect, and exploitation of elderly persons (defined as age 65 and older) and persons with disabilities. When maltreatment is confirmed, APS staff provide or arrange for the services needed to remedy or prevent further abuse. Individuals eligible to receive protective services may reside in the community or they may be served by or through facilities operated by the Texas Department of Mental Health and Mental Retardation (TxMHMR), such as state schools, state hospitals, state centers and their contractors and outreach programs, or community MHMR centers and their contractors.



APS also may investigate reports of maltreatment of persons under age 18 with disabilities when these individuals have been declared legal adults (through court order or marriage) or when they are residing in TxMHMR facilities.

The seed for the APS program in Texas was planted in the mid-1970s with the passage of Title 20 of the Social Security Act, which required that states receiving Title 20 funds assure that the state's human services systems would protect children, elderly persons, and adults with disabilities from abuse, neglect, and exploitation. This seed sprouted with the passage in 1981 of Chapter 48 of the Human Resources Code (HRC 48), which established the state's authority and responsibility for protecting vulnerable adults from maltreatment.

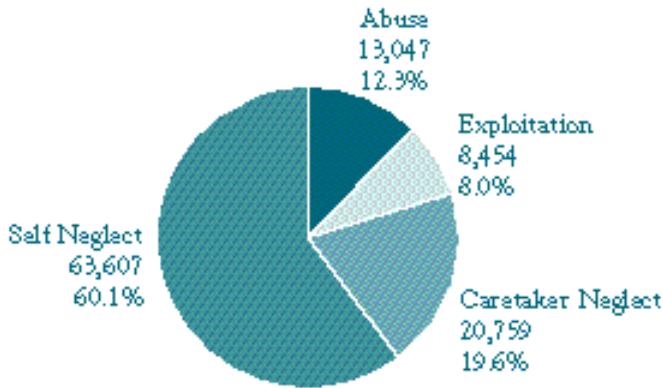
The APS program was transferred from the Texas Department of Human Services (DHS) to the Texas Department of Protective and Regulatory Services (PRS) on September 1, 1992.

As the APS program developed over the past 15 years, Chapter 48 of the Human Resources Code (HRC) has been amended,

most recently during the 74th Legislature, which enacted significant revisions that took effect in September 1995. Major changes include:

- ◆ clarifying definitions
- ◆ delineating the department's authority concerning guardianship
- ◆ waiving probate bonds, costs, or fees for the department and political subdivisions with which APS may contract
- ◆ changing the required "visit" to the client's place of residence to "an interview" with the person if appropriate
- ◆ stipulating that the department may interview alleged perpetrators who are juvenile and may hold interviews in private or in the presence of "any person the department or agency determines is necessary"

Types of Allegations Community Investigations



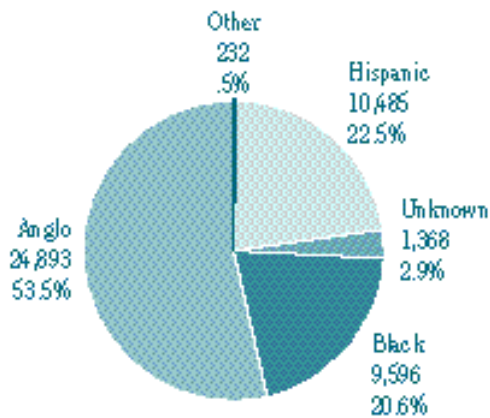
- ◆ strengthening and clarifying the sections relating to access of records necessary to the performance of the department's duties under HRC 48
- ◆ specifying immunity from civil or criminal liability for medical personnel, law enforcement officers, and department volunteers who are helping APS with an investigation or with actions pursuant to an investigation, as long as these persons have acted in good faith and, if applicable, in the course and scope of their assigned duties
- ◆ stipulating that peace officers shall accompany and assist APS with court-ordered entries
- ◆ specifying that protective services may be provided without the person's consent if the person lacks the capacity to give consent
- ◆ adding exploitation to the causes that may precipitate an emergency order for protective services and "threats to physical safety" to the

conditions that may be presenting harm to the elderly or disabled person when these orders are sought

- ◆ allowing the department to seek a court order to provide emergency protective orders without a medical statement when it is not possible or there is not time to get one
- ◆ codifying PRS' authority and responsibility regarding facility and community MHMR center investigations

Ethnicity of Clients Community Investigations

Total 46,574



- ◆ delegating PRS' oversight of other agencies' investigations to the respective agency boards, with agency rules governing investigations to be approved by the Health and Human Services Commission (HHSC)
- ◆ adding provisions that clarify confidentiality issues and address disclosure and exchange of information
- ◆ specifying that complaints about APS investigations are to be made to the PRS Ombudsman Office

Organizationally, in fiscal year 1995 the APS span of control was distributed among eight regions, whose regional directors were supervised by the Deputy Director of Adult Protective Services. For administrative purposes, regions 1 and 10 (El Paso, Amarillo, Lubbock), regions 2 and 9 (Abilene, Wichita Falls, Midland/Odessa), and regions 4 and 5 (Paris, Tyler, and Beaumont) were combined, each grouping under one regional director.

Abuse: “(A) the negligent or willful infliction of injury, unreasonable confinement, intimidation, or cruel punishment with resulting physical or emotional harm or pain, or (B) sexual abuse, including any involuntary or consensual sexual conduct that would constitute an offense under: (i) Section 21.08, Penal Code (indecent exposure); or (ii) Chapter 22, Penal Code (assaultive offenses)”

Examples include:

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

Source: Chapter 48 of The Human Resources Code

APS regional administration is relatively flat, as there is no management layer between the regional directors and front-line unit supervisors. Depending on the needs of the particular locality, units were specialized, i.e., composed of either facility- or community-based workers, or they were generic, composed of staff who performed both types of investigations. Some quasi-specialized units were composed predominately of either facility or community workers, but had one or two staff trained to handle both types of reports.

HRC 48 mandates that within 24 hours of receipt of a report of abuse, neglect, or exploitation, APS is to "initiate a prompt and thorough investigation as needed to evaluate the accuracy of the report and to assess the need for protective services." The only exceptions are reports which are deemed "frivolous or patently without a factual basis" or that do "not concern abuse, neglect, or exploitation as those terms are defined by (HRC 48) or as defined by department rules (for facility

investigations)." Therefore, the APS program does not have a great deal of latitude to exclude cases from investigation or control that part of the workload.

Health and social services reductions affect APS significantly. Reductions in the availability of in-home services, for example, increase the potential for neglect and generate additional reports to APS. Alternatives for guardianship services are also lacking, resulting in additional reports to APS. A critical area of program growth was the recent addition of responsibility for investigations of alleged abuse and neglect in 36 community MHMR centers.

With limited funds available for purchased services, APS policy has historically restricted the use of its Emergency Client Services (ECS) funds to short-term interventions, with the exception of purchased guardianship services, which must extend for the life of the ward. While APS in emergencies can pay for a variety of services, including in-home care or nursing care, it is not funded to do so on a long-term basis. Without alternate resources in the community to which to transfer stabilized cases, APS also must re-evaluate its use of ECS. Before the cut-backs, APS could provide in-home community care while services from

Neglect: “the failure to provide for one’s self the goods or services, including medical services, which are necessary to avoid physical or emotional harm or pain or the failure of a caretaker to provide such goods or services.”

Examples include:

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

Source: Chapter 48 of The Human Resources Code

Exploitation: “the illegal or improper act or process of a caretaker, family member, or other individual who has an ongoing relationship with the elderly or disabled person using the resources of the elderly or disabled person for monetary or personal benefit, profit, or gain without the informed consent of the elderly or disabled person.”

Examples include:

- ◆ taking Social Security or Supplemental Security Income checks
- ◆ abusing joint checking accounts, and
- ◆ taking property or other resources.
- ◆ verbal and psychological abuse.

Source: Chapter 48 of The Human Resources Code

other agencies were being established. If these services will not be available later, new guidelines for ECS will be necessary.

In fiscal year 1995, guardianship increasingly became the responsibility of APS because the courts had few alternatives. Some APS cases can be remedied only by guardianship, which is a serious intrusion into an individual’s life. Even though the magnitude of these cases is only a small percent of the total APS caseload, guardianship is necessary for some clients who are incapable of handling their own affairs and who have no family or friends willing or able to take on the responsibility.

The guardianship issue was heightened in 1993, when APS received the responsibility of assuming guardianship of children with severe disabilities who reach adulthood while in conservatorship of Child Protective Services.

Currently, APS staff either serve as guardians themselves or make arrangements for a contractor to assume the responsibility. Six APS staff across the state carry specialized guardianship caseloads. Other APS caseworkers are also appointed guardians by probate judges in protective services cases where no other prospective guardians can be found. APS staff are serving as guardians in approximately 100 cases, while six contracts furnish guardianship services for about 400 clients.

Experience indicates that staff can do a better job when they specialize in guardianship rather than juggle the duties of guardianship and community-based services at the same time. Being a guardian is like parenting--a 24-hour, daily responsibility. Combining this responsibility with investigating and intervening in emergency situations of maltreatment can create difficult choices and conflicting priorities for caseworkers. Funds and contract options are not available to ease the pressure. Thus, caseworkers find themselves under growing obligation as probate courts turn to APS for guardianship services.

Reports have increased more than 1,300 percent since the program began in 1981, and currently around 82 percent of community-based investigations confirm that subjects of reports are in need of protective services. In 1995, 46,574 reports were investigated in community-based APS, and 33,290 cases were validated and offered services. In fiscal year 1995, facility staff investigated 5,905 reports, confirming 1,028 incidents of maltreatment.

Of confirmed cases in the community, 86 percent of clients received purchased as

Disabled person: a person with a mental, physical, or developmental disability that substantially impairs the person’s ability to provide adequately for the person’s care or protection and who is (A) 18 years of age or older; or (B) under 18 years of age and who has had the disabilities of minority removed.

Source: Chapter 48 of The Human Resources Code

APS workers in the community averaged 43 cases per month at the end of fiscal year 1995, rather than the program standard of 24.

well as direct services. During the year, 9,529 clients, 25 percent of confirmed cases, received services purchased by APS on their behalf. Despite these numbers, APS is thought to be reaching only 35 percent of elderly and disabled Texans who are in states of maltreatment, so reports can be expected to continue to increase.

Given these factors, APS is at a crossroads. Traditionally an inclusive social services program with a mission focused on helping people first, the caseload must be reduced for caseworkers to be effective, and appropriations have not been sufficient to add the staff necessary to do this. The program's operating plan for 1996, which includes cutting clerical positions and diverting the savings to a small number of new caseworker positions, is not likely to have a lasting impact on the caseload, given the upward trend of reporting. Other measures will be necessary. Policy changes under consideration include modifications in the requirements and procedures for investigations, as well as restrictions on the extent of services offered after investigations. Certain types of clients might be denied services altogether on the grounds that resources are not available or their priority group has been cut.

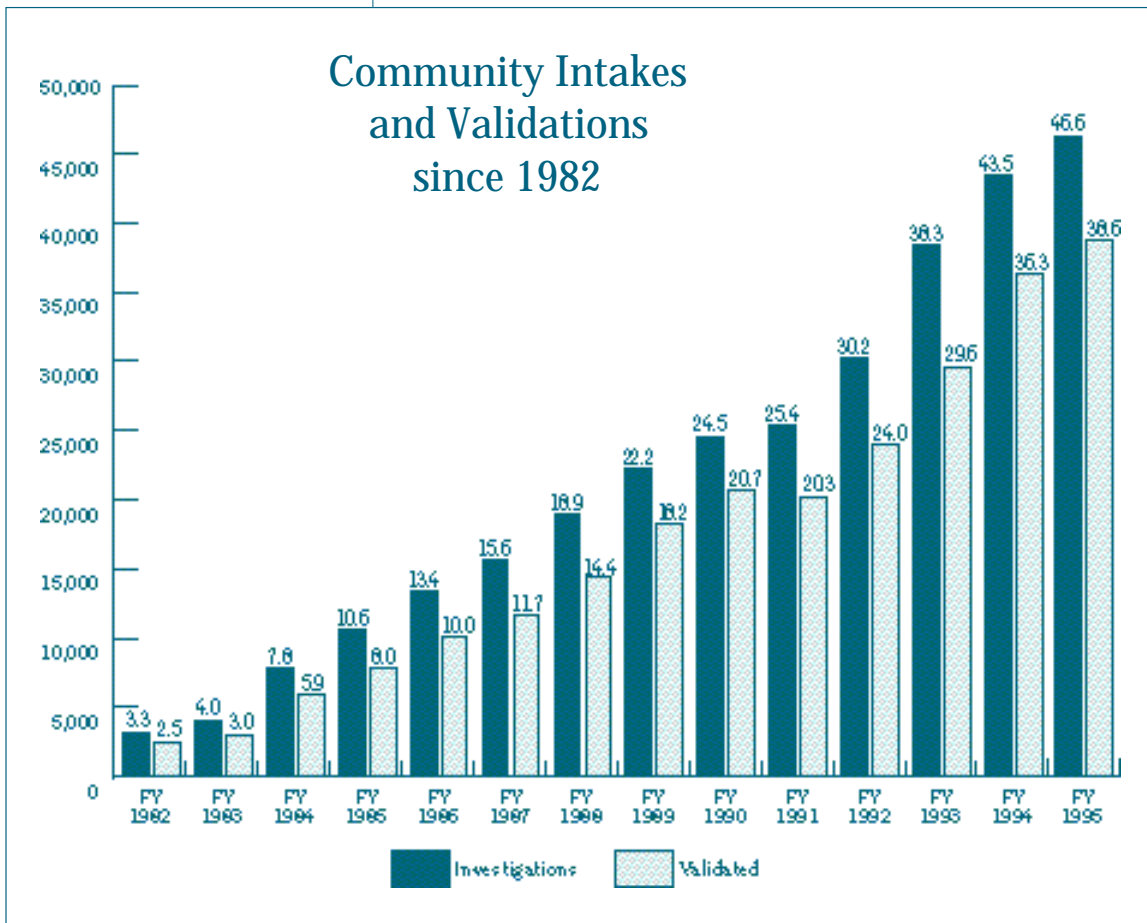
In FY 1995, \$21.5 million was spent on community-based investigations and direct and purchased services, including \$0.5 million for guardianship contracts. Another \$3.0 million was spent on facility investigations, including \$0.3 million transferred from TxMHMR to assist APS with the assumption of the responsibility for investigations in community MHMR centers.

Despite this, staffing increases have not kept up with the caseload. APS workers in the community averaged 43 cases per month at the end of fiscal year 1995, rather than the program standard of 24. At the end of 1995, facility investigations averaged 18 investigations per month per worker, instead of the standard seven. The increasing demand is compounded by recidivism, which in community APS grew 43 percent between 1992 and 1995. Although there are many reasons why cases re-enter the system, overwhelming workloads that prevent staff from having the time to thoroughly address client problems are thought to play a major role.

Accomplishments

APS regional staff made impressive achievements in community resource development during fiscal year 1995, receiving awards at the annual PRS volunteer conference for development of community partnerships and volunteer projects to benefit clients and the at-risk APS population. One project in Nacogdoches involved college students and the community cleaning and restoring the homes and yards of APS clients with donated goods and money. In another project, various organizations serving elderly persons in Beaumont combined their efforts to locate representative payees for APS clients. Elsewhere APS staff worked with representatives of several East Texas agencies to plan and sponsor a Regional Elder Awareness Conference on Health (REACH) in Tyler attended by about 500.

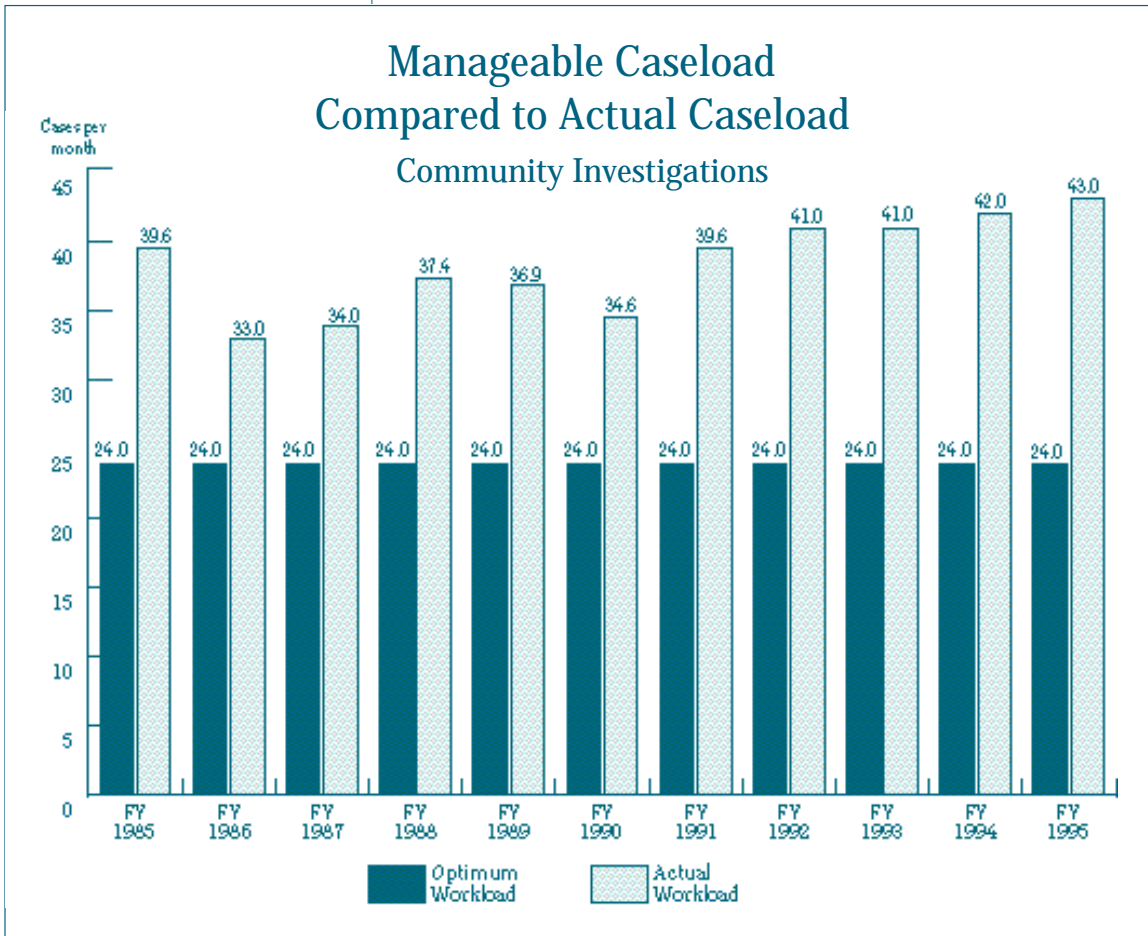
APS staff in San Antonio received a \$24,000 grant from the Alamo Council of Government/Area Agency on Aging to purchase additional services for clients and equipment needed for public awareness activities. San Antonio staff also worked with a San Antonio police department program that supervises juvenile offenders in community service projects to help APS clients with yard work, painting, and home repair.



Regional advisory committees continued to function in El Paso, Abilene, and Midland/Odessa and in Gregg, Bowie, Smith and Harrison counties in East Texas. A University of North Texas film class produced a documentary on APS workers in Fort Worth, and this same group of workers has been instrumental in developing more resources for volunteer guardians.

In a region in which APS was able to assign an individual to work full-time on community resource development, the results were outstanding. A mentor program in the Houston area matched volunteers from the community with young adults who are aging out of CPS conservatorship and targeted to become wards of APS. Numerous private businesses donated items such as groceries, medication, clothing, box fans, wheelchairs, and other durable medical equipment. Community agencies assisted APS clients by providing home repairs, telephone reassurance, and respite services. The supervisors in the Houston region were recognized as the PRS Team of the Year for their coordinated efforts towards having a positive impact on the lives of APS clients.

APS staff continued to make presentations to various public and private organizations in an effort to increase awareness of the APS program, encourage reporting, and nurture good working relationships. These included appearances at health fairs, senior centers, law enforcement academies, and meetings of professional organizations.

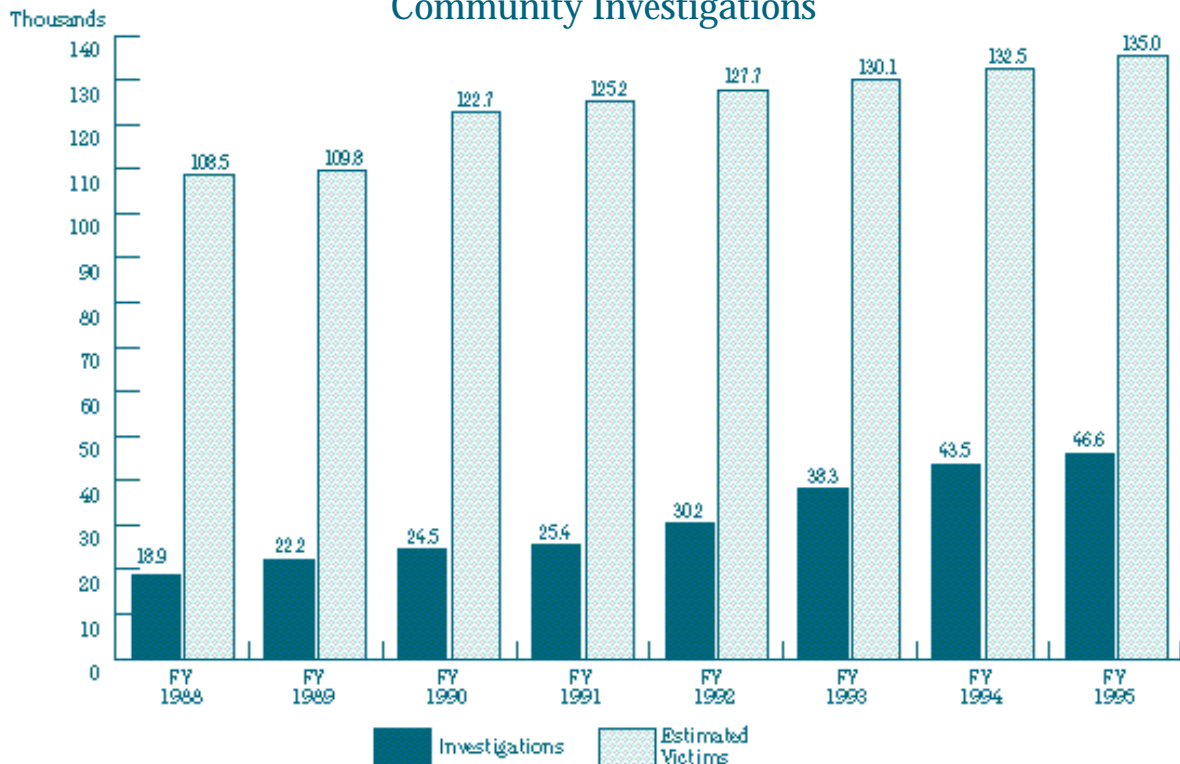


In 1995, APS continued its teamwork approach to management, assigning program specialists in state office to function as liaisons to specified regions. The liaisons channel two-way, personal communication between state office and regional staff and promote responsiveness, a strong program identity, and improved accountability. The program improvement committees, statewide and regional, continued to meet to identify problem areas, propose solutions, review draft policy, and share ideas for system improvements. Following these successful models, established by the community and facility program improvement committees, an internal APS guardianship work group was formed in April to furnish input and feedback on guardianship issues.

An internal audit of APS caseload performance measures completed in August 1994 identified some delays in reporting case actions for entry in the APS data base. In an effort to improve performance in this area, state office and regional administrative staff closely monitored the timeliness of reported case actions during fiscal year 1995. Special reports were prepared for supervisory staff to assist them in the monitoring process and additional case readings were conducted. As a result, the timeliness of reporting data has increased significantly, resulting in more accurate caseload information.

To ensure accountability in the purchase of client services, APS staff have developed standardized goals, outputs, and measurable outcomes for each cat-

Cases Reported Compared to Estimated Population of Victims Community Investigations

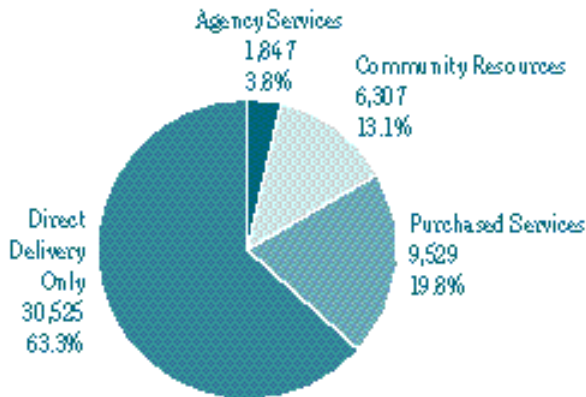


egory of services purchased. These measures will be included in contracts for services purchased in 1996 and will be used to assess the benefits to clients resulting from the purchase of the services. APS staff have also standardized guidelines for the procurement of these services to increase competition and to ensure statewide consistency in contracting practices.

Several APS staff from the department's regional offices and state headquarters worked either full or part time on the department's automation project, CAPS (Child and Adult Protective System) during 1995. These staff provided input to the CAPS contractor by participating in the design and testing of the custom software and resolving policy issues as they arose. Other regional staff met regularly to prepare for the roll out of the computer hardware and commercial software and to identify issues associated with statewide implementation of the custom software application in 1996. APS staff in San Antonio began preparing to field test the custom CAPS application in September 1995. While dedicating staff to the project has significantly increased the program's workload, the investment of time and effort is expected to pay off later by increasing productivity and quality.

Additions and revisions were made to agency policy during 1995 to clarify the roles and responsibilities of APS and Child Protective Services (CPS)

Types of Services Provided Community Investigations Total 48,208



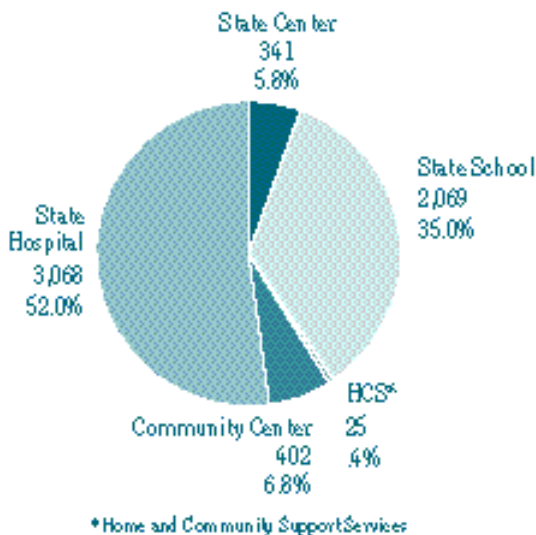
regarding children who become adults while in CPS conservatorship. Under Texas law, children become adults when they reach the age of 18, and they are no longer afforded the protection of conservatorship by the state. This creates a practical and legal dilemma for severely disabled children who are “aging out” of the child protection system. These incapacitated young adults are placed under the guardianship of APS when no one else is willing or appropriate to serve as guardian. To provide specific procedures for these and other cases in which APS staff and guardianship contractors are appointed as guardians for incapacitated persons, this year a guardianship section of the APS Handbook, including forms commonly used in court proceedings, was completed for distribution in the fall of 1995.

During 1995, the program worked with Professional Development Division staff to continue the development, delivery, and enhancement of program curricula. The first of three social services technician training sessions was done in September and the curricula has undergone two revisions since that time. Program staff also developed and produced a video entitled "Interviewing the Client and Alleged Perpetrator" for use in the Worker Interviewing Skills Evaluation (WISE) training that will be delivered next year. APS staff also participated in the development of the computer-based training for the Child and Adult Protective System (CAPS) application.

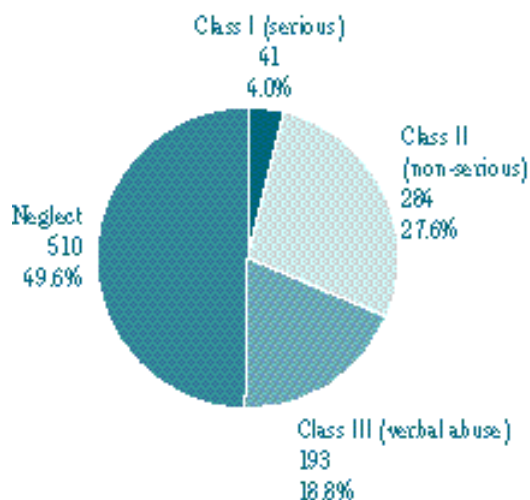
Other milestones for APS facility investigations during 1995 were:

- ◆ In August 1995, APS facility and community staff met with mental health advocates and consumers to obtain their input on revisions to the curriculum for facility investigations training. Special emphasis was given to improving investigator skills related to interviewing persons with mental illness and ways to help staff become more familiar with and sensitive to the cultural climate in mental health and mental retardation facilities.
- ◆ New rules (TAC Chapter 710, Subchapter A) were adopted concerning investigations of abuse, neglect, and exploitation in facilities operated by the Texas Department of Mental Health and Mental Retardation.
- ◆ PRS assumed the responsibility for investigating reports of abuse, neglect, and exploitation in community mental health and mental retardation centers, as directed by House Bill 1111.

Investigations by Type of Facility Total 5,905



Classification of Confirmed Facility Investigations



◆ PRS developed a comprehensive case reading instrument to enhance the quality of facility investigations. The instrument, developed in collaboration with consultants from Labor Relations Alternatives, Inc., includes program standards and will be used statewide.

Two special research projects were undertaken in 1995 in collaboration with Texas institutions for higher learning. APS contracted with the Pruett Gerontology Center at Abilene Christian University to assist with a statewide survey of the incidence of elder maltreatment in Texas. The program also entered into an inter-agency agreement with the University of Texas at Austin Center on Social Work Research for a strategic forecast of factors that may affect the aged and disabled population, and hence the APS caseload, over the next 15 years. The forecasting project included a Delphi survey of key informants and focus groups in the PRS regions to follow up on issues identified in the survey. Both projects are scheduled to end in the fall of 1995.

The annual APS conference, held at the beginning of the fiscal year in San Antonio, provided a major opportunity for the continuing education of APS staff. Started in 1984, the conference is co-sponsored by the American Public Welfare Association (APWA) and is attended by adult protective and related professionals from other states and around the world.

Findings in Completed Facility Investigations

	Confirmed Cases	Inconclusive*	Unconfirmed	Total
1982	191	0	315	506
1983	210	0	394	604
1984	329	0	614	943
1985	360	0	670	1,030
1986	367	0	607	974
1987	371	0	561	932
1988	532	0	984	1,516
1989	709	0	1,116	1,825
1990	749	0	1,226	1,975
1991	764	0	1,346	2,110
1992	835	0	1,775	2,610
1993	869	319	2,566	3,754
1994	841	271	2,874	3,986
1995	1,029	399	3,240	4,668

*Category not used until FY 1993

Annual Report on Investigations in Facilities Regulated by Other State Agencies

Chapter 48 of the Human Resources Code was amended in 1987 to clarify agency responsibility for investigating maltreatment of adults in facilities regulated by state agencies. At that time, it gave to each state agency that regulated facilities (i.e., that licensed, certified, registered, or operated them) the responsibility for conducting investigations in those facilities. It further directed APS and the other state agencies to enter into annual memoranda of understanding, giving APS a number of responsibilities. These included:

- ◆ Reviewing other agency rules to ensure uniformity and compliance with HRC 48
- ◆ Receiving and investigating complaints regarding other state agency investigations
- ◆ Collecting and analyzing data gathered from review and oversight
- ◆ Preparing an annual report regarding incidence, trends, and systemic problems

In addition to DHS, the following agencies were affected by this change:

- ◆ Texas Commission on Alcohol and Drug Abuse (TCADA)
- ◆ Texas Commission for the Blind (TCB)
- ◆ Texas Commission for the Deaf (TCD)
- ◆ Texas Department of Health (TDH)
- ◆ Texas Education Agency (TEA)
- ◆ Texas Department of Mental Health Mental Retardation (TxMHMR)
- ◆ Texas School for the Blind (TSB)
- ◆ Texas School for the Deaf (TSD)
- ◆ Texas Rehabilitation Commission (TRC)

However, House Bill 7, passed by the 72nd Legislature and effective September 1, 1992, transferred from TxMHMR to PRS the responsibility for investigations in TxMHMR facilities, contracts, and outreach programs. This function was placed within APS, which rendered moot its routine monitoring of MHMR investigations. Instead, APS took over the management and provision of investigations in state schools, state hospitals, state centers, and their contracts and outreach programs. This change was made pursuant to the settlement of the Lelsz litigation against the state in an attempt to make investigations independent of the facility in which the maltreatment was alleged to have occurred.

House Bill 1510, passed by the 73rd Legislature, transferred the Bureau of Long Term Care (BLTC), responsible for licensing nursing and personal care homes and investigating abuse and neglect in these facilities, from TDH to DHS. Previously, APS had reviewed a representative sample of TDH BLTC investigations, an authority not given by HB 7, but pre-existing due to the relationship between DHS and TDH regarding nursing home certification. When HB 7 removed APS from DHS, the APS responsibility with regard to BLTC facilities became limited to the specific mandate of HB 7, i.e., accepting and reviewing complaints about BLTC investigations.

Smaller agencies which operated or regulated facilities, such as Texas Department on Alcohol and Drug Abuse, Texas School for the Deaf, and Texas

House Bill 7, . . . transferred from TxMHMR to PRS the responsibility for investigations in TxMHMR facilities, contracts, and out-reach programs.

Commission for the Blind, continued to route investigations and complaints to APS for review. Under memoranda of understanding (MOU) with the Texas Education Agency and Texas Rehabilitation Commission, investigations in facilities regulated by these agencies were delegated to APS, and therefore have not been included in the annual reviews.

The next major change with regard to facility investigations occurred when the 74th Legislature, through House Bill 1111, delegated oversight responsibility for investigations conducted by other state agencies (with the exception of TxMHMR investigations, which remained in PRS) to the respective agency boards, with approval of rules for investigations being given to the Health and Human Services Commission (HHSC). The requirement for an annual report on facility investigations was deleted. HB 1111 also assigned to PRS the responsibility for investigations in community MHMR centers, which previously had self-investigated reports of abuse.

During 1995, APS received reports and complaints concerning the following agencies:

- ◆ Texas Commission on Alcohol and Drug Abuse (TCADA) submitted 34 investigation reports for review. Of those, five cases were confirmed, 17 were unconfirmed or inconclusive, and 12 were not related to abuse, neglect, or exploitation. TCADA also submitted 238 reports for 1993 and 1994 with their submission for 1995. Of those reports, 93 were confirmed, 86 were unconfirmed or inconclusive, and 59 were not related to abuse, neglect, or exploitation. No complaints about TCADA investigations were received by APS in 1995.
- ◆ Texas School for the Deaf (TSD) submitted six investigation reports. Of those, one was confirmed, four were unconfirmed and one was inconclusive. APS received no complaints about TSD investigations during the fiscal year.
- ◆ Texas Department of Human Services - Bureau of Long-Term Care submitted 12 complaints regarding DHS/BLTC investigations. APS concurred with DHS/BLTC findings in 10 cases and disagreed in two. For the second year in a row, complaints to APS about DHS/BLTC investigations decreased, presumably because of increased internal complaint resolution within DHS/BLTC.

Monthly statistical summaries concerning investigations in long-term care facilities in 1995 are available from DHS/BLTC Investigations unit at (512) 834-6778, P.O. Box 149030, Mail Code Y-976, Austin, Texas 787514-9030.

- ◆ Texas Department of Health (TDH) submitted one complaint regarding a hospice center. APS concurred with the findings of the TDH investigation.
- ◆ Other Agencies. In fiscal year 1995, no investigation reports were received from the Texas School for the Blind and Visually Impaired, the Texas Commission for the Blind, or the Texas Commission for the Deaf. □