# Definitions

## ADULT PROTECTIVE SERVICES PROGRAM

**Abuse (In-Home)** – The negligent or willful infliction of injury, unreasonable confinement, intimidation, or cruel punishment with resulting physical or emotional harm or pain by a caretaker, family member, or other individual with whom the person who is elderly or disabled has an ongoing relationship.

**Abuse (in Texas Department of Mental Health Mental Retardation (MHMR) Investigations) –**

- any act or failure to act performed knowingly, recklessly, or intentionally, including incitement to act, which caused or may have caused physical injury or death to a person served;
- any act of inappropriate or excessive force or corporal punishment, regardless of whether the act results in an injury to a person served;
- any use of chemical or bodily restraints not in compliance with federal and state laws and regulations;
- sexual abuse; or
- any act or use of verbal or other communication including gestures to curse, vilify, or degrade a person served or threaten a person served with physical or emotional harm.

**Adult** – A person 18 or older, or an emancipated minor.

**Aged or Elderly Person** – A person 65 or older.

**Allegation –** An assertion that a person who is elderly or who is an adult with a disability is in a state of, or at risk of, harm due to abuse, neglect, or exploitation.

**Alleged Perpetrator** – A person who is reported to have abused, neglected or exploited a person who is elderly or who is an adult with a disability.

**APS** – Adult Protective Services

**APS In-Home –** The term used to refer to investigations and service delivery related to abuse, neglect, and exploitation of persons who are elderly and adults with disabilities who generally live in non-institutional settings, that is, private homes, small foster homes, and legally unlicensed room and board facilities. APS in-home caseworkers investigate exploitation in licensed facilities when the alleged perpetrator is not affiliated with the institution. In previous years Adult Protective Services in-home counts have been referred to as "community" cases. To avoid confusion with investigations in community MHMR centers, the title "community" will no longer be used when referring to the APS in-home program area.

**APS Investigation of Adult Abuse, Neglect, and Exploitation –** Refers to completed investigations. Prior to FY 96, "investigations" in APS referred to initiated investigations rather than completed investigations.

**APS Guardianship Services** – Guardianships provided directly or through contract to incapacitated children reaching adulthood in CPS conservatorship; or incapacitated adults in APS in-home investigations where abuse, neglect, or exploitation has been confirmed and there is no other means of protecting the person.

**Capacity to Consent** – Having the mental and physical ability to understand the current problems and the services offered and to accept or reject those services, knowing the consequences of the decision.

**Child and Adult Protective System (CAPS) –** The software application by which Adult Protective Services (APS) and Child Protective Services (CPS) staff document cases.

**Caretaker** – A guardian, representative payee, or other person who by act, words, or course of conduct has acted so as to cause a reasonable person to conclude that he has accepted the responsibility for protection, food, shelter, or care for a person who is elderly or an adult with a disability.

**Client –** A person who is elderly or an adult with a disability who has been determined in a validated finding to be in need of protective services.

**Designated Perpetrator** – A person who has been determined in a validated finding to have abused, neglected or exploited a person who is elderly or who has a disability.

**Disabled Person –** A person with a physical, mental, or developmental disability that substantially impairs the person's ability to provide adequately for the person's care or protection and who is 18 years of age or older or under 18 years of age and who has had the disabilities of minority removed.

**ECS –** Emergency client services provided in accordance with §48.002(5) of the Human Resources Code, including, but not limited to, emergency shelter, medical and psychiatric assessments, in-home care, residential care, heavy housecleaning, minor home repairs, money management, transportation, emergency food, medication, and other supplies. Specific emergency client services are only available in a community if those specific services are not available through other state and local resources. To be eligible for emergency client services, a person who is elderly or an adult with disabilities must be receiving adult protective services from the Texas Department of Protective and Regulatory Services in accordance with §§48.002(5) and 48.021(a) of the Human Resources Code and have a service plan which has been developed by the department under these sections and which indicates that emergency client services are needed to remedy abuse, neglect, or exploitation. All other available resources must be used where feasible before emergency client services are initiated.

**Emancipated Minor** – A person under 18 who has the power and capacity of an adult. This includes a minor who has had the disabilities of minority removed by a court of law or a minor who, with or without parental consent, has been married.

**Emotional or Verbal Abuse** – Any use of verbal communication or other behavior to humiliate, intimidate, vilify, degrade, or threaten with harm.

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

**Guardian** – A court-appointed person or entity that makes decisions on behalf of an incapacitated person.

**Guardian of the Estate** – The personal representative given responsibility and authority for managing the assets of the ward in a temporary or permanent guardianship (e.g., paying bills, selling property, and managing finances).

**Guardian of the Person** – The personal representative given responsibility and authority for the health, well-being, and personal needs of the ward in a temporary or permanent guardianship.

**Guardianship Program** – A local, county, or regional program that provides guardianship and related services to an incapacitated person or other person who needs assistance in making decisions concerning the person's own welfare or financial affairs.

**Intake Priorities (In-Home)** – In establishing priorities, the department defines the time frames for beginning an investigation and for conducting a face-to-face interview with the alleged victim. Adult protective services priorities are based on the degree of severity and immediacy of the alleged harm to the individual.

> **Priority I** – APS reports that allege the victim is in a state of serious harm or is in danger of death from abuse or neglect. The caseworker must attempt a face-to-face visit with the alleged victim within 24 hours of the department's receipt of a Priority I report, which may include, but is not limited to, the following:

1. Serious injuries. Examples: spinal injury, fractured ribs puncturing lung, head injury, severe burns, broken hip, internal injuries.
2. Lack of life-sustaining medication.
3. Serious threats by caretaker to kill alleged victim.
4. Lack of basic physical necessities severe enough to result in freezing, starvation, or dehydration.
5. Need for immediate medical attention to treat conditions that could result in irreversible physical harm, e.g., unconsciousness, acute pain, severe respiratory distress, gangrene, hemorrhaging, severe malnutrition.
6. Suicide threats or attempts unless there is clearly no immediate danger to the alleged victim.
7. Sexual abuse when there is danger of repeated abuse.
8. No caretaker is available; the alleged victim is unable to perform critical personal care activities, and his needs cannot be met by community care services.

**Priority II** – APS reports that allege the victim is abused, neglected, or exploited and, as a result, is at risk of serious harm. The caseworker must attempt a face-to-face visit with the alleged victim within three calendar days of the department's receipt of a Priority II report. For example, if the intake was received on 9-01, the caseworker must attempt a face-to-face visit on or before 9-04. Priority II reports may include, but are not limited to, the following:

1. Critical need for mental health or medical treatment. Examples: suicidal but no immediate danger, overly aggressive behavior, open bedsores or other open wounds, malnutrition, sprains, fractures, or disease or illness of an acute nature.
2. Falling or being pushed, hit, or scratched, which is reported to have resulted in bruises, other injuries, or severe mental anguish.
3. Inadequate attention to physical needs. Examples: insufficient food or medicine.
4. Illegal or improper use of alleged victim's income or resources to the degree that alleged victim is unable to meet basic subsistence needs or is threatened with substantial loss of income or resources.
5. Unreasonable confinement.
6. Sexual abuse of the alleged victim by the caretaker, but clearly no immediate danger of repeated abuse.
7. Caretaker has threatened physical violence that would cause harm to the alleged victim.
8. Living conditions that pose a serious health or safety hazard. Examples: fecal contamination, dead animals, major structural damage to shelter.
9. Imminent eviction from a nursing home because the alleged victim's representative has failed to use the alleged victim's income to pay for his care.
10. Threatened loss of caretaker when the alleged victim is dependent for basic needs.

**Priority III** – Consists of all other APS reports that allege the victim is in a state of abuse or neglect. The caseworker must attempt a face-to-face visit with the alleged victim within seven calendar days of the department's receipt of a Priority III report. For example, if the intake was received on September 1, the caseworker must attempt a face-to-face visit on or before September 8. Priority III reports may include, but are not limited to, the following:

1. Verbal or emotional abuse. Examples: harassment, cursing, degrading remarks, intimidation.
2. Marginal care or threatened withdrawal of care by caretaker when the alleged victim needs some assistance with his basic activities of daily living.
3. Falling or being pushed, hit, or scratched when such actions are not reported to result in bruises, other injuries, or severe mental anguish.

4. Need for mental health or medical treatment that is not urgent. Examples: mild depression, delusional thinking that is not dangerous to the alleged victim or others, poor nutrition, or disease or illness that is not acute.

**Priority IV** – APS reports that allege exploitation when there is no danger of imminent impoverishment or deprivation of basic needs. The caseworker must attempt a face-to-face visit with the alleged victim within 14 calendar days from the date the department receives a Priority IV report. For example, if the intake was received on September 1, the caseworker must attempt a face-to-face visit on or before September 15. Priority IV reports may include, but are not limited to, the following:

1. Lack of appropriate contribution to food and shelter expenses by household members.
2. Misuse of a nursing home resident's personal needs allowance by someone who is not affiliated with the nursing home. (If the alleged perpetrator is an employee of the nursing home, refer to the Texas Department of Human Services.)
3. Improper use of income or resources but the alleged victim's needs are still met.
4. Exploitation that is not ongoing and is not likely to recur.

**Intake Priorities for MHMR Investigations** –

**Priority I** – Defined as reports in which the alleged incident occurred seven calendar days or less prior to the date the report was received by the department. The investigator must attempt a face-to-face contact with the alleged victim within 24 hours of receipt of the report by the department.

**Priority II –** Defined as reports in which the alleged incident occurred more than seven but less than 90 calendar days prior to the date the report was received by the department. The investigator must attempt a face-to-face contact with the alleged victim within two calendar days of receipt of the report by the department.

**Priority III –** Defined as reports in which the alleged incident occurred 90 calendar days or more prior to the date the report was received by the department. The investigator must attempt a face-to-face contact with the alleged victim within five calendar days of receipt of the report by the department.

**Incidence of Maltreatment** – Ratio of the number of confirmed APS in-home cases in a geographic area to the total population in that area of persons who are elderly and persons who have disabilities.

**Institution** – An establishment that furnishes, in one or more facilities, food and shelter to four or more persons who are unrelated to the proprietor of the establishment and provides minor treatment under the direction and supervision of a physician licensed by the Texas State Board of Medical Examiners, or other services that meet some need beyond the basic provision of food, shelter, and laundry.

**Least Restrictive Alternative** – An action or service that protects a client while allowing personal autonomy to the fullest degree possible.

**MHMR Facilities** – State schools, state hospitals, and state centers.

**MHMR Investigations** –Investigations conducted by APS related to abuse, neglect, or exploitation of persons with disabilities served by MHMR facilities, local authorities, community centers, home and community-based services waiver (HCS waiver) programs and their contractors.

**Neglect (In-Home)** – 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 the goods or services.

**Neglect (MHMR Investigations**): A negligent act or omission by any individual responsible for providing services in a facility rendering care or treatment which:

- caused or may have caused physical or emotional injury or death to a person served,
- placed a person served at risk of physical or emotional injury or death, and
- includes an act or omission such as
- the failure to establish or carry out an appropriate individual program plan or treatment plan for a person served;
- the failure to provide adequate nutrition, clothing, or health care to a person served (in a community MHMR center, the failure to provide adequate nutrition, clothing, or health care only applies to in-patient or residential programs); or
- the failure to provide a safe environment for a person served, including the failure to maintain adequate numbers of appropriately trained staff.

**Protective Services** – The services furnished by the department or by a protective services agency to a person who is elderly or who has a disability and has been determined to be in a state of abuse, exploitation, or neglect. These services may include social casework, case management, and arranging for psychiatric and health evaluation, home care, day care, social services, health care, and other services consistent with this chapter.

**Provider Agency (Contractor)** – An agency that has contracted with the department to provide authorized services for adult protective service clients.

**Reporter –** A person who makes a referral to adult protective services staff about a situation of alleged abuse, neglect, or exploitation of a person who is elderly or has a disability.

**Sexual Abuse** – "Any involuntary or non-consensual sexual conduct including conduct that would constitute an offense under Section 21.08, Penal Code, or Chapter 22, Penal Code." (See Item 3410, Notification to Law Enforcement Agency.)

**Ward** – An adult adjudicated by the court to be mentally or physically incapacitated and for whom a guardian has been appointed.

## CHILD CARE LICENSING PROGRAM

**CCL-Child Care Licensing** – This program is responsible for protecting the health, safety, and well-being of Texas children who reside in or attend child care facilities. The program also regulates child care administrators, foster homes, halfway houses, child placing agencies, and maternity homes.

For Child Care Licensing definitions, see the Protective and Regulatory internet web site: www.tdprs.state.tx.us\Child_Care\Child_Care_Licensing_Introduction

# CHILD PROTECTIVE SERVICES PROGRAM

**Children in Foster Care** – All children under PRS' legal responsibility who are placed in foster homes, foster group homes, institutions, residential treatment facilities, and juvenile facilities who are in a placement paid by PRS or some other public facility. This is a subset of Children in Substitute Care.

**Children in Substitute Care –** Children under PRS' legal responsibility who are placed outside their own home (home of origin). This includes foster homes, institutions, foster group homes, residential treatment facilities, hospitals, adoptive homes, other juvenile facilities, relative home placements, and independent living arrangements. This is a subset of Children in PRS Legal Responsibility.

**Children in the Legal Responsibility of the Texas Department of Protective and Regulatory Services** – All children for whom the courts have given the Texas Department of Protective and Regulatory Services legal responsibility by temporary or permanent managing conservatorship or other court ordered legal basis. These children may be residing in an out of home placement or may have been returned to their own home (home of origin). When a child who has been abused and neglected must be removed from their home, an emergency court order must be obtained. After 14 days from the emergency court order a Child Protective Services worker must obtain from the court a temporary order for managing conservatorship. By no later than 12 months, the judge must either return the child to the parent and dismiss the suit, or appoint a parent, relative, or PRS as managing conservator on a permanent basis.

**CPS Investigations of Child Abuse and Neglect** – The agency is required by state law to conduct civil investigations of reports of suspected child abuse or neglect. Upon receipt, initial reports are assigned to priority groups based upon the alleged situations.

**Intake Priorities –** To establish time frames for investigations, Child Protective Services divides reports of child abuse and neglect into two priority groups. Priority group assignments are based on staff's assessment of the degree of harm or risk to the children. Based on information reported by the complainant and other available information, staff evaluate the immediacy of the risk and the severity of the harm. The evaluation involves a number of factors including information about the alleged perpetrators, the children's ages and conditions, the specific nature of the harm, and whether the harm has actually occurred.

> **Priority I** – Intake reports that concern children who appear to face an immediate threat of serious harm or death as a result of the alleged abuse or neglect.
>
> **Priority II** – Reports that concern allegations of abuse or neglect where there do not appear to be immediate threats of serious harm or death.

Referrals are assigned a priority based upon the information provided by the complainant and other available information. When conducting an investigation, the caseworker may be unable to confirm that abuse or neglect occurred. Additional facts may indicate that the report is unfounded, or the family may have moved and cannot be located so that the investigation cannot be completed. Sometimes a Priority I becomes Priority II when investigation shows that the abuse or neglect is not as serious as originally reported. Likewise, a Priority II referral may be classified as a Priority I when the investigation shows that the abuse or neglect is more serious than originally reported.

**Level of Care –** PRS seeks to place each child in the department's conservatorship with a foster caregiver who is well qualified to meet the child's needs. To achieve this, the department participates in a statewide system for classifying the needs of children and the capabilities of foster caregivers in six Levels of Care (LOC)

**a) Level I** – Adequate functioning in all developmental and/or environmental areas. There may be transient difficulties, "everyday" worries, and occasional misbehavior, but would be regarded as a normal child; responds to "normal" discipline. The caregiver provides routine home environment with guidance and supervision to meet the needs of the child.

> **Examples of Current Facility Operations:** Children at this level typically are served in PRS independent foster family and foster group homes, Juvenile Court certified foster homes, PRS licensed care facilities.

**b) Level II** – No more than occasional problems in functioning in any area, some acting-out behavior in response to life stresses, but these are brief and transient; minimally disturbing to others, and not considered defiant by those who know them. The caregiver provides routine home environment with supplemental guidance and discipline to meet the needs of the child.

> **Examples of Current Facility Operations:** Children at this level typically are served in PRS independent foster family and foster group homes; Juvenile Court certified foster homes, PRS licensed basic care facilities.

**c) Level III –** Frequent or repetitive minor problems in one or more areas; may engage in non-violent anti-social acts, but is capable of meaningful interpersonal relationships. Requires supervision in a structured supportive setting with counseling available from professional staff.

> **Examples of Current Facility Operations:** Children and adolescents at this level typically are served in PRS licensed therapeutic foster family and therapeutic foster group homes; Texas Youth Commission or Juvenile Court approved foster family and foster group homes; PRS licensed basic care facilities, PRS licensed residential treatment centers; PRS licensed wilderness camps; PRS licensed half-way houses; PRS licensed programs serving mentally retarded children and adolescents; PRS habilitative foster family and foster group homes.

**d) Level IV** – Substantial problems; have physical, mental, or social needs and behaviors that may present a moderate risk of causing harm to themselves or others, poor or inappropriate social skills, frequent episodes of aggressive or other anti-social behavior with some preservation of meaningful social relationships. Require treatment program in a structured supportive setting with therapeutic counseling available by professional staff.

> **Examples of Current Facility Operations:** Children and adolescents at this level typically are served in PRS licensed therapeutic foster group homes; Texas Youth Commission or Juvenile Court approved foster family and foster group homes; agency or independent foster family and foster group homes which meet PRS licensing standards for therapeutic foster family or therapeutic foster group homes; PRS licensed basic facilities; PRS licensed therapeutic camps; PRS licensed residential treatment centers; programs licensed by the Texas Commission on Alcohol and Drug Abuse (TCADA); PRS habilitative foster family and foster group homes, and PRS licensed programs serving mentally retarded children and adolescents.

**e) Level V** – Severe problems; unable to function in multiple areas. Sometimes willing to cooperate when prompted or instructed, but may lack motivation or ability to participate in personal care or social activities or is severely impaired in reality testing or in communications. May exhibit persistent or unpredictable aggression, be markedly withdrawn and isolated due to either mood or thought disturbance, or make suicidal attempts. Presents a moderate to severe risk of causing harm to self or others. Requires 24-hour supervision by multiple staff in limited access setting.

> **Examples of Current Facility Operations:** Children and adolescents at this level typically are served in a program which is licensed by PRS as a therapeutic camp or as a residential treatment center, in a program licensed by TCADA, or in a PRS licensed program serving mentally retarded children and adolescents.

**f) Level VI –** Very severe impairment(s), disability(s) or need(s); consistently unable or unwilling to cooperate in own care. May be severely aggressive or exhibit self-destructive behavior or grossly impaired in reality testing, communication,

cognition, affect, or personal hygiene. May present severe to critical risk of causing serious harm to self or others. Needs constant supervision (24-hour care) with maximum staffing, in a highly structured setting.

> **Examples of Current Facility Operations:** Children and adolescents served at this level of care typically are served in (1) an in-patient psychiatric hospital accredited by Joint Commision on Accreditation of Health Care Organizations (JCAHCO) and licensed by the Texas Department of Mental Health and Mental Retardation (MHMR) as an in-patient psychiatric facility; (2) specialized placements in a variety of settings including those regulated by the MHMR Community Standards. These provide intensive medical interventions for severely medically fragile, mentally retarded children and adolescents who require intensive behavioral, educational and programmatic intervention due to their mental disabilities; (3) specialized placements in appropriately licensed facilities for severely impaired children who require a behavioral approach for treatment and education.

**g) Level E2 –** Emergency care in a foster group home.

**h) Level E3 –** Emergency care in an emergency shelter institution.

**Permanency Goal Definitions –** Permanency goals for children for whom PRS has legal responsibility include:

**a) Family Preservation –** This goal is selected if the child can be safely maintained in the family environment with supportive services from the Department without the Department having to take legal custody of the child. At some point, the Department will close its case with the family

**b) Family Reunification –** This goal focuses on providing services to the family to deal with the issues of abuse or neglect so that the child who has been removed from the home can be returned. At some point the child is returned to the family with court approval. After a supervisory period, a recommendation is made to the court to dismiss legal custody granted to the Department.

**c) Permanent Placement With Relative or Close Family Friends –** This goal is selected when the plan is to permanently place a child in the legal custody of the Department with a relative or close family friend through either adoption or transfer of conservatorship.

**d) Adoption by Non-Relative –** This goal focuses on placing a child in the custody of the Department with an unrelated family for adoption. Prior to the actual adoptive placement, parental rights must be terminated by the court. After a supervisory period, the adoption is consummated by the court.

**e) Alternative Long-Term Care –** This goal is selected when the child cannot be returned safely to the family, or cannot be placed with relatives or close family friends, and adoption is not a possibility for the child. Under this goal, the Department raises the child unless at some point legal custody can be transferred to a caretaker or another permanency goal becomes available. Formal court approved agreements are made with the foster families who have on-going relationships with these foster children to ensure that the children receive long-term consistent care. The goal is comprised of four sub-sections: 1) Foster care with commitment, 2) Foster care without commitment, 3) Transfer conservatorship to caregiver, 4) Other living arrangement.

**f) Adult Living –** This goal is selected for youth in the custody of the Department who are 16 or older (may start as early as 14) unless another permanency goal is more appropriate. This goal has two subsections: 1) independent living, and 2) long term care in adulthood. The Department will either prepare the youth to live independently as an adult or arrange the long-term care and support the youth will need in adulthood because of a disability.

**Recidivism –** Refers to the re-occurrence of child abuse/neglect involving confirmed victims where the second incidence occurs within one year of the first incidence.

**Reports of Child Abuse and Neglect –** The agency receives many reports of children who are in situations that are not optimal for their growth or development, but do not appear to involve child abuse or neglect as defined by law. Only the reports that appear to meet the statutory definition of abuse or neglect are required by state law to be investigated by the agency.

**Risk Assessment of Child Abuse/Neglect –** Workers in child protective services investigate allegations of abuse and neglect and make assessments of risk. Risk is defined as: The reasonable likelihood that a child will be abused or neglected, as defined in the Texas Family Code, in the foreseeable future. The decision to provide services is based on the assessment of risk, and not on the findings of the allegations. Services are provided when it is necessary to protect a child from immediate harm regardless of whether or not abuse or neglect has already occurred. Risk assessment is an analysis of the family's ability to protect a child from abuse or neglect. In conducting a risk assessment, a worker explores risk factors, family strengths and resources, and safety issues in order to make decisions on how to protect children. After evaluating risk in a family, there are three possible conclusions:

- No Significant Risk Factors – No significant risk factors were identified.
- Risk Factors Controlled – Risk factors were identified; however, family strengths and available resources are sufficient to provide for the safety of the child in the foreseeable future.
- Risk Indicated – Risk factors were identified, and there are not sufficient family strengths and available resources to provide for the safety of the child in the foreseeable future.

If the third conclusion is reached, the response can involve any combination of the following:

- Complete a safety plan for the family that controls the risk factors with the child in the home.
- Provide family preservation services.
- Place the child with a relative or in foster care.

The efforts of Child Protective Services staff are directed at protecting children and maintaining children in their own homes only when their safety can be assured. In some CPS investigations the risk assessment process is not applicable. These are investigations that do not involve families, such as abuse or neglect alleged to have been committed by school personnel, or volunteers. CPS also does not do risk assessment if the family moves before the investigation is finished or when the only child in the family has died of abuse or neglect. By using a risk-based system for providing services, CPS is able to identify children in need of protection and direct resources and efforts for those most in need of them.

# Notes: