### 6550 Investigations of Illegal Operations

#### 6551 Conducting Searches

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Upon receiving information of a possible illegal operation and before assigning a priority, search the following databases in the order listed using a variety of parameters, including name, address, and telephone number:

a. CLASS, to determine whether the operation has a permit or has previously been reported to be operating illegally, or if anyone associated with the operation has a background check

b. IMPACT, to determine whether any person associated with the operation is a designated or sustained perpetrator

c. The DPS sex offender registry, to determine whether the operation’s address is an exact match to an address listed on the registry or whether any person associated with the operation is listed in the registry

If only a phone number is known, staff should first conduct a reverse telephone number search on a free, publicly available website to obtain further identifying information.

For illegal daycare operations, initiate an *Accurint* search in accordance with district procedures if no information is available through use of the search methods listed above. Additionally, with approval by the director or manager, the Family Inquiry Network / Database Search System (FINDRS) may be accessed to obtain additional information on a limited basis.

**Exception:** Staff are not required to complete all searches before assigning a priority if it would interfere with initiation time frame requirements.

See [6251.2](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_6000.asp#LPPH_6251_2) Entering Reports of Illegal Operations.

#### 6553 Initiating the Investigation

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Procedure

To initiate an investigation assigned a Priority 3 (P3), the investigator notifies the alleged provider that the operation may be subject to regulation by:

a. calling the provider;

b. sending [Form 2864](http://intranet.dfps.state.tx.us/Application/FORMS/showFile.aspx?Name=2864.docx) Illegal Operations Notification Letter, located in the electronic forms system, via regular mail or email (if only the email address is known); or

c. conducting an inspection.

If there is no response to a phone call, letter, or email, Licensing staff must inspect the location within the required 30-day inspection time frame.

Initiate an investigation assigned a Priority 2 (P2) by conducting an inspection unless:

• a director or manager approves initiating the investigation by another method; or

• only a telephone number or email address is available.

See [6431](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_6400.asp#LPPH_6431) Requirements for Conducting Unannounced Inspections.

##### 6554.1 Conducting the Investigation When An Address Is Known

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Procedure

If the address of the operation is known the investigator initiates the investigation based upon the priority as outlined in [6553](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_6400.asp#LPPH_6553) Initiating the Investigation.

If the investigation is prioritized as a Priority 3 (P3), the investigator may initiate the investigation by mailing [Form 2864](http://intranet.dfps.state.tx.us/Application/FORMS/showFile.aspx?Name=2864.docx) Illegal Operations Notification Letter, located in the electronic forms system, to the operation within five days of receipt of intake requesting that the provider contact the investigator within five days.

Provider Fails to Contact Investigator Within Five Days

If the provider fails to contact the investigator within five days, the investigator:

a. conducts an inspection of the operation as soon as possible but no later than 30 days after receipt of intake to determine whether the operation is subject to regulation;

b. provides the appropriate application to the operation if the provider wishes to continue operating, if the operation is determined to be subject to regulation;

c. requests that the provider submit the appropriate application within five days of the date of inspection; and

d. follows up within 15 days of the date the application was provided if the application has not been submitted to ensure closure of the operation or to obtain the application.

Provider Contacts the Investigator Within Five Days

If the operation does contact the investigator within five days as requested the investigator advises the operation of the legal requirements for licensing and determines if the operation is subject to regulation.

If the investigator determines the operation is not subject to regulation, the investigator closes the investigation and the illegal operation with a finding of compliance for the allegation.

If the investigator determines the operation is subject to regulation, the investigator:

a. mails the operation [Form 2865](http://intranet.dfps.state.tx.us/Application/FORMS/showFile.aspx?Name=2865.docx) Illegal Operation Application Cover Letter, located in the electronic forms system, with the application attached, or provides the link for electronic submission of an application;

b. advises the operation that the application must be submitted within five days of receipt of the application or submitted electronically within five days from the date of contact;

c. inspects the operation as soon as possible, but no later than 30 days after the date of the intake if there is no response to the letter,

d. obtains the application or ensures the operation has ceased operating.

The investigator documents all contacts according the policies listed under [6723](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_6600.asp#LPPH_6723) Contact List.

##### 6554.2 Conducting Investigations When Only a Phone Number Is Known

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Procedure

When a search conducted under [6551](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_6400.asp#LPPH_6551) Conducting Searches reveals only a telephone number for an alleged illegal operation, the investigator initiates the investigation by attempting to contact the provider by phone within five days of receipt of intake and conducts the investigation in the following manner:

a. If the investigator is unable to make contact with the provider, the investigator must attempt at least two more phone contacts during varying times and days within the first 15 days of receipt of the intake. If the investigator is unable to make contact after three attempts, the investigation should be closed.

b. If the phone number is not in service, the investigation should be closed.

c. When phone contact is successful, the investigator takes the following actions:

1. If possible, the investigator obtains the address and name of the provider.

2. The investigator staffs with the supervisor if the provider is not cooperative in providing information.

3. The investigator makes a determination, based upon information from the provider, whether the operation is subject to regulation.

4. If the operation is not subject to regulation, the investigator closes the investigation and operation in CLASS.

5. If the operation is subject to regulation, the investigator sends the operation [Form 2865](http://intranet.dfps.state.tx.us/Application/FORMS/showFile.aspx?Name=2865.docx) Illegal Operation Application Cover Letter, located in the electronic forms system, with the application attached, and advises the provider to return the application within five days.

6. If the application or written notification of closure is not submitted, the investigator inspects the operation as soon as possible but no later than 30 days after the date of intake. During the inspection the investigator either obtains the application or ensures closure of the operation.

The investigator documents all contacts and attempted contacts in the investigation chronology according the policies listed under [6723](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_6600.asp#LPPH_6723) Contact List.

See [6557](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_6400.asp#LPPH_6557) Procedures When an Illegal Operation Is Determined to Be Not Subject to Regulation.

##### 6554.3 Conducting Investigations When Only an Email Address Is Known

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When a search conducted under [6551](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_6400.asp#LPPH_6551) Conducting Searches reveals only an e-mail address for an alleged illegal operation, the investigator initiates the investigation by emailing the provider within five days of receipt of intake and conducts the investigation in the following manner:

a. The investigator sends an email by copying and pasting [Form 2864](http://intranet.dfps.state.tx.us/Application/FORMS/showFile.aspx?Name=2864.docx) Illegal Operation Notification Letter, located in the electronic forms system, into the body of the email.

b. If the email is returned as undeliverable then the investigation is closed.

c. The investigator attempts to contact the operation three times within 15 days of the intake. If there is no response after that time, the investigator consults with the supervisor for further instructions.

d. When email contact is successful, the investigator takes the following actions:

1. If possible, the investigator obtains the address and name of the provider.

2. The investigator staffs with the supervisor if the provider is not cooperative in providing information.

3. The investigator makes a determination, based upon information from the provider, whether the operation is subject to regulation.

4. If the operation is not subject to regulation, the investigator closes the investigation and operation in CLASS.

5. If the operation is subject to regulation, the investigator sends the operation Form 2865 Illegal Operation Application Cover Letter, located in the electronic forms system, with the application attached, and advises the provider to return the application within five days.

6. If the application or written notification of closure is not submitted, the investigator inspects the operation as soon as possible but no later than 30 days after the date of intake. During the inspection the investigator either obtains the application or ensures closure of the operation.

The investigator documents all contacts according the policies listed under [6723](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_6600.asp#LPPH_6723) Contact List.

See [6557](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_6400.asp#LPPH_6557) Procedures When an Illegal Operation Is Determined to Be Not Subject to Regulation.

#### 6555 Obtaining Consent to Enter an Illegal Operation

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Policy

Licensing staff must receive consent to enter from a person legally authorized to grant it before entering an establishment to investigate allegations of:

• the existence of an illegal operation; or

• abuse or neglect in an illegal setting.

Procedure

The investigator must obtain consent to enter the operation in writing using [Form 2895](http://www.dfps.state.tx.us/Application/FORMS/showFile.aspx?Name=2895.doc) Consent to Enter Illegal Operation.

If a provider refuses to allow an inspection or investigation of an operation that is subject to regulation, the investigator reminds the provider that a citation may be issued for failure to follow statute or administrative rules.

If the provider refuses to allow the investigator to enter, the investigator continues with other investigation activities to gain as much information as possible to determine the status of the illegal operation. This includes:

a. observing the outside environment of the establishment;

b. conducting surveillance of the establishment;

c. talking to parents who may be dropping off or picking up children;

d. interviewing neighbors; and

e. interviewing other collateral contacts that may have information, such as law enforcement.

#### 6556 Requesting an Illegal Operation to Cease Operating

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Policy

If the investigator determines that the illegal operation poses an immediate risk to the health or safety of children, the investigator must ask the operation to cease operating immediately until the operation can obtain the appropriate permit. If the operation agrees to cease operating, the investigator contacts the parents or has the provider contact the parents to pick up the children immediately.

Circumstances that may require an illegal operation to cease operating include, but are not limited to, the following:

a. The number and ages of children in care exceeds the abilities of the provider to provide appropriate care and supervision

b. The physical environment poses a risk to the health or safety of children

c. The provider or household member has a criminal, central registry, or sex offender match

d. There are allegations of abuse, neglect, or exploitation

e. The operation has indicated it is unwilling to submit an application for a childcare permit

Procedure

If the determination is made that an illegal operation should cease operating, the investigator follows the procedure outlined in [6332.4](http://www.dfps.state.tx.us/handbooks/Licensing/Files/LPPH_pg_6000.asp#LPPH_6332_4) Requesting That an Operation Cease Operating (Day Care Only).