



*Presentation on House Charge 14 relating to implementation of SB 643 (81R)
and the Department of Justice settlement agreement*

Senate Health and Human Services Committee

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Adult Protective Services

Overview of Adult Protective Services (APS) Investigations

APS conducts two types of investigations of abuse, neglect and exploitation of older adults (age 65+) and persons with disabilities:

- Mental Health and Mental Retardation settings
- In-home settings

Purpose of MH and MR Investigations

APS' role in protecting MH and MR clients from abuse, neglect and exploitation (ANE) is to:

- Conduct an unbiased investigation in response to reported allegations
- Provide notification of allegations and objective findings to the provider so they can take appropriate action to protect consumers

APS does not:

- Proactively investigate or regulate providers
- Have operational authority over the providers

81st Texas Legislature Changes Related to APS Investigations

- SB 643
 - Transfers investigations of ANE in private ICFs-MR to APS – investigations began June 1
 - Requires an MOU with DADS, DSHS, Independent Ombudsman and OIG - completed
 - Requires DFPS to consult with DADS on development of a combined ANE database – in progress

Department of Justice Settlement Agreement with State on SSLCs

- Policy changes implemented in June
 - Conduct all investigations in 10 days in SSLCs and MR portion of Rio Grande State Center
 - Have supervisors review investigations before finalizing
 - Include review of prior case histories on clients and alleged perpetrators as part of evidence collection
- APS has worked closely with DADS and DOJ monitors to assist with reviews of compliance with the Settlement Agreement

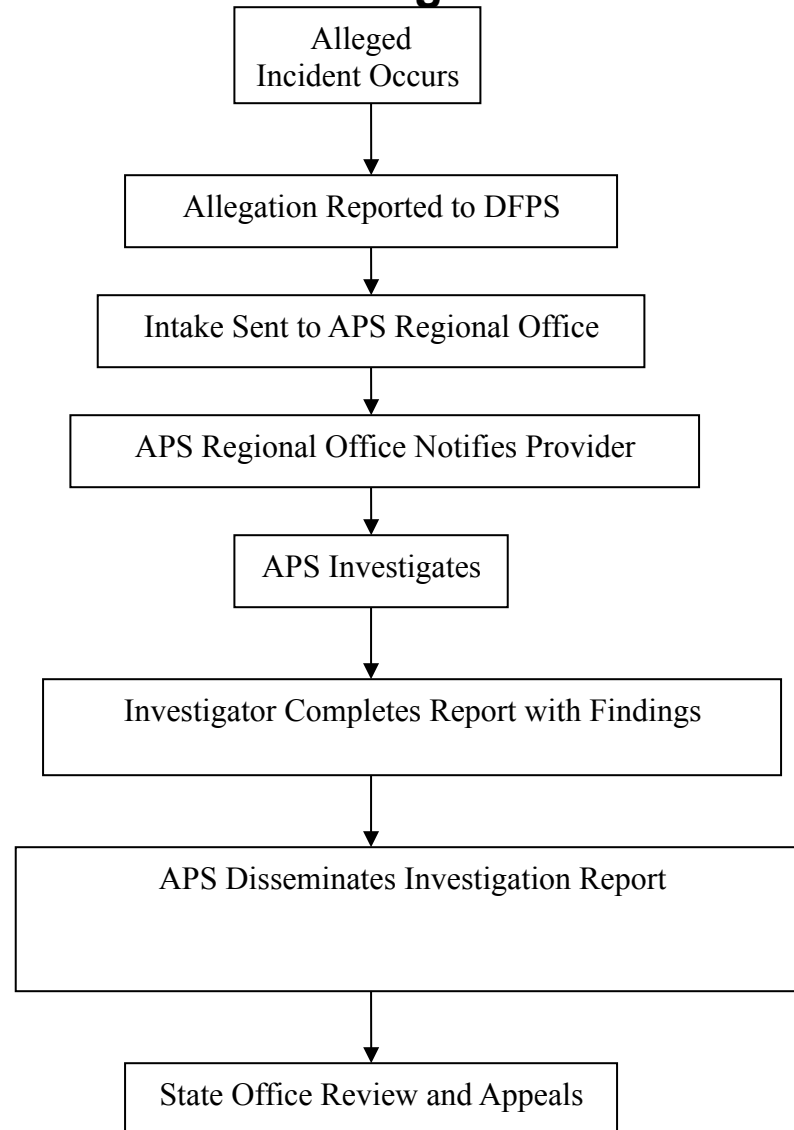
Authority to Investigate

Texas Human Resources Code §48.252, §48.352 and Family Code §261.404 authorize APS to investigate reports in:

- State-operated mental health facilities (State hospitals)
- State-operated mental retardation facilities (State Supported Living Centers) and the Rio Grande State Center
- Community mental health and mental retardation centers
- Home and Community-based Services (HCS) and Texas Home Living Medicaid waiver programs
- Private, licensed intermediate care facilities for persons with mental retardation (Private ICFs-MR) - effective June 1, 2010

Texas Department of Family and Protective Services

Overview of Investigations Process



Intake and Notification Process

Employees, agents, or contractors must report allegations of abuse, neglect, or exploitation to DFPS Statewide Intake (SWI) immediately or within one hour.

SWI receives reports via a 24-hour toll-free abuse hotline dedicated to receiving allegations regarding MH and MR clients and also via the internet.

Within one hour of receipt, SWI routes reports to local APS offices who then notify:

- The administrator of the facility, center, or waiver provider;
- Law enforcement if the report alleges criminal activity, or any report involving a child;
- OIG for SSLCs when there is cause to believe criminal conduct has occurred

Investigation Process

Based on allegation priority, the investigation must meet the following requirements:

Priority	Face-to-Face Client Contact	Investigation Concluded
1	Within 24 Hours	Within 10* or 14 Days
2	Within 3 Days	Within 10* or 14 Days
3**	Within 7 Days	Within 10* or 21 Days

*All SSLC investigations must be completed within 10 days

** There are no Priority 3 Investigations in SSLCs

The APS investigator gathers evidence to determine if an allegation is valid through:

- Face-to-face contact with the alleged victim
- Interviews with alleged perpetrators and relevant witnesses
- Obtaining written statements
- Taking or obtaining relevant photographs/diagrams
- Reviewing relevant information in client records
- Reviewing relevant administrative forms such as incident reports, client injury reports, and timesheets

Reporting Process

Upon completion of the investigation, the investigator analyzes the evidence and formulates a report that:

- Accurately describes the evidence
- Assesses credibility of witnesses
- Determines probable version of events
- Shows why the evidence does/does not fit the definition of ANE
- Determines a finding for each allegation
- Shows reasoning behind all judgments

The completed report is sent to the provider and DADS State Office and, if appropriate, law enforcement.

The investigator makes appropriate referrals (e.g., EMR).

Reviews and Appeals

- APS notifies the reporter (if known) of the finding of the investigation and the method for appealing the findings.
- A reporter, person served, legal guardian of the person served, or Advocacy, Inc. may appeal the findings.
- An administrator or contractor may request a review of the finding of an investigation.
- APS State Office conducts reviews and appeals and may change the findings.

Questions