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# **APS Provider Investigations**

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**Investigating Abuse, Neglect,  
and Exploitation**

# Agenda

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1. Legislative Changes
2. Overview of APS Provider Investigation (APS PI) Program
3. Investigation Process Overview
4. Reporting Abuse, Neglect, and Exploitation
5. Contact Information



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# Legislative Changes

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DFPS became a stand-alone agency as a result of the 85<sup>th</sup> Legislative Session

APS PI transitioned to HHSC as a result of S.B. 200, 84<sup>th</sup> Regular Session (Sunset Legislation)

APS PI joined the HHSC Regulatory Division on September 1, 2017



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# HHSC Regulatory Division

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- Long-term Care Regulation
- Child Care Licensing
- Adult Protective Services-Provider Investigations
- Health Care Quality
- Complaint & Incident Intake



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# HHSC Regulatory Division

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## Mission

Protecting the public through responsible regulation.

## Vision

Protect the health, safety and welfare of vulnerable Texans, as well as to help individuals and entities comply with state and federal laws and regulations.



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# HHSC Regulatory Division

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## Values

- Protect consumer health, rights and safety
- Develop innovative and efficient regulatory processes
- Process applications for licenses in an accurate and timely manner
- Provide exceptional customer service
- Conduct thorough and unbiased investigations of complaints and incidents

# APS PI

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## Legal Authority:

- Chapter 48 Human Resources Code;
- Chapter 261 Family Code;
- Title 40 of the Texas Administrative Code (TAC), Chapters §705 and §711



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# APS PI

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APS PI does not:

- proactively investigate;
- regulate providers; or
- have operational authority over providers.



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# APS PI

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- Focus is on unbiased investigations of abuse, neglect, and exploitation (ANE)
- Investigations:
  - time-sensitive,
  - evidence focused,
  - up-front notification of allegation, and
  - release of investigatory report with findings and recommendations so the provider can take protective actions
- Investigates allegations of ANE involving individuals receiving services from certain providers.



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# APS PI Jurisdiction

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APS PI investigates the following providers:

- Facilities
  - State Hospitals
  - State Supported Living Centers
  - ICF-IIDs
  - HHSC/DADS and HHSC/DSHS operated community services
  - Person contracting with a HHS agency to provide inpatient mental health services
- Community Center, Local Mental Health Authority, Local Intellectual and Developmental Disability Authority



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# APS PI Jurisdiction

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Continued:

- Person who contracts with HHS agency or MCO to provide Home and community-based services (HCBS)
- Person who contracts with MCO to provide behavioral health services
- Managed Care Organization (MCO)
- Officer/employee/agent/contractor/subcontractor of above
- Employee/agent/manager/coordinator of an individual participating in the Consumer Directed Services (CDS) option



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# APS PI Jurisdiction

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As well as:

- Individuals residing in a HCS group home regardless of whether the individual is receiving services under the waiver program from the provider
- Children receiving services from a HCSSA

APS PI does not investigate if the provider is licensed and another agency has authority to investigate the ANE of such licensed provider.



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**APS PI**  
investigates  
the following  
allegation  
types

- Physical Abuse
- Sexual Abuse
- Verbal/Emotional Abuse
- Neglect
- Exploitation



# Physical Abuse

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Physical abuse is defined as:

- an 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 an individual receiving services;
- an act of inappropriate or excessive force or corporal punishment, regardless of whether the act results in a physical injury to an individual receiving services; or
- the use of chemical or bodily restraints or seclusion on an individual receiving services not in compliance with federal and state laws and regulations.



# Sexual Abuse

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Sexual abuse is defined as any sexual activity, including but not limited to:

- kissing, hugging, stroking, fondling an individual receiving services with sexual intent;
- engaging in sexual conduct with an individual receiving services;



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# Sexual Abuse cont.

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- engaging in or displaying any activity that is obscene, as defined in the Texas Penal Code §43.21 in the presence of an individual receiving services; or
- requesting, soliciting, or compelling another person to engage in any activity that is obscene, as defined in the Texas Penal Code §43.21 in the presence of an individual receiving services;





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# Sexual Abuse cont.

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- sexual exploitation;
- sexual assault;
- aggravated sexual assault; and
- creating a pornographic video of a person served.



# Verbal/Emotional Abuse

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Verbal or emotional abuse is defined as:

- any act or use of verbal or other communication, including gestures, to curse, vilify, or degrade an individual receiving services; or
- threaten an individual receiving services with physical or emotional harm.

The act or communication must:

- result in observable distress or harm to the individual receiving services; or
- be of such a serious nature that a reasonable person would consider it harmful or causing distress.



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# Neglect

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Neglect is defined as a negligent act or omission which caused, or may have caused, physical or emotional injury or death to an individual receiving services, or which placed an individual receiving services at risk of physical or emotional injury or death.



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# Exploitation

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Exploitation is defined as the illegal or improper act or process of using an individual receiving services or the resources of an individual receiving services for monetary or personal benefit, profit, or gain.



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# Exploitation cont.

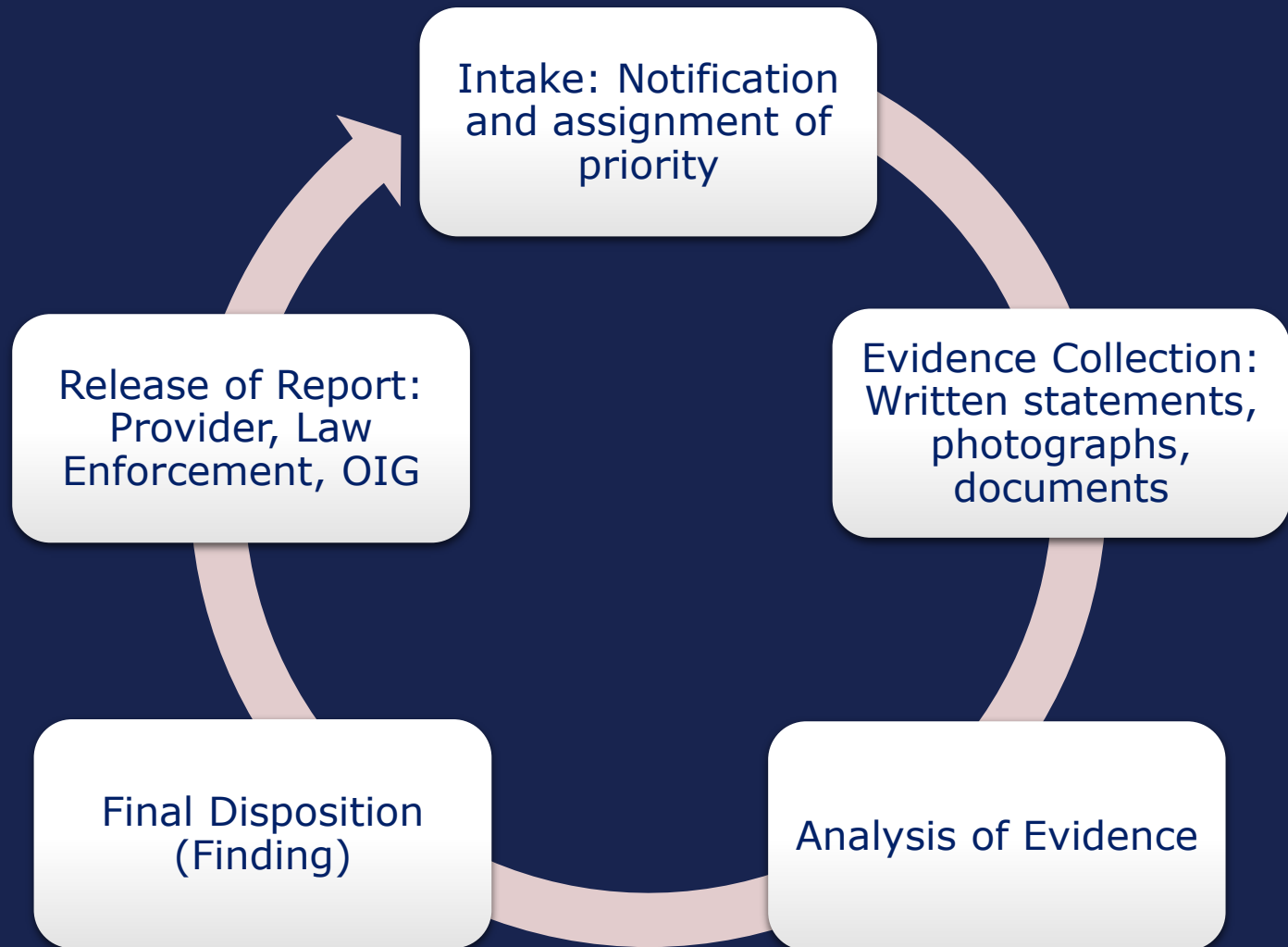
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Exploitation includes theft as defined in Chapter 31 of the Texas Penal Code when the alleged perpetrator is a direct provider providing services to an individual in the home and community (except in HCS and TxHmL providers).

# Investigation Process



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# Notification of the allegation

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The purpose of notifying the provider of an allegation is so the provider may take appropriate action to protect the individual receiving services and evidence.



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# Priorities and Time Frames

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- Priority I, Priority II, or Priority III based on allegation type, seriousness of injury, and date of incident.
- Face-to-face requirements based on Priority set at intake stage:
  - Priority I - 24 Hours
  - Priority II - 3 Calendar Days
  - Priority III - 7 Calendar Days



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# Priorities and Time Frames

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- Investigation completion time frame set by setting and priority:
  - 10 days
  - 14 days
  - 21 days
  - 30 days
- Investigators may request to extend an investigation deadline when circumstances warrant it.



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# Investigation Finding

**Confirmed:** An allegation that is supported by the preponderance of the evidence.

**Unconfirmed:** An allegation in which a preponderance of evidence exists to prove that it did not occur.

**Inconclusive:** An allegation leading to no conclusion or definite result because of lack of witnesses or other relevant evidence.

**Unfounded:** An allegation that is spurious or patently without factual basis.

## **System Issue:**

- The provider's lack of established policy or procedure contributed to the ANE; or
- the provider's established policy is inadequate and fails to ensure the safety of the individuals.



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# Report Sharing

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APS PI releases the final Abuse and Neglect report to the:

- provider, and
- appropriate HHSC division, when applicable.

The provider forwards the final report to the MCO, if applicable.



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# CDS Option

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APS PI releases the Abuse and Neglect report to:

- the CDS employer; and
- the FMSEA, MCO service coordinator, or case manager, as applicable

The CDS employer forwards the report to the MCO, if applicable.



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# Roles and Responsibilities

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APS PI:

- Notifies the provider of an allegation;
- Conducts a thorough investigation;
- Provides the investigative report to the provider upon completion of the investigation; and
- Communicates with HHSC and law enforcement to ensure the safety and welfare of individuals receiving services.



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# Neglect, and Exploitation

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Report suspected abuse neglect or exploitation by contacting DFPS Statewide Intake at:

- 800-252-5400, or
- [www.txabusehotline.org](http://www.txabusehotline.org).



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# Helpful Information When Reporting

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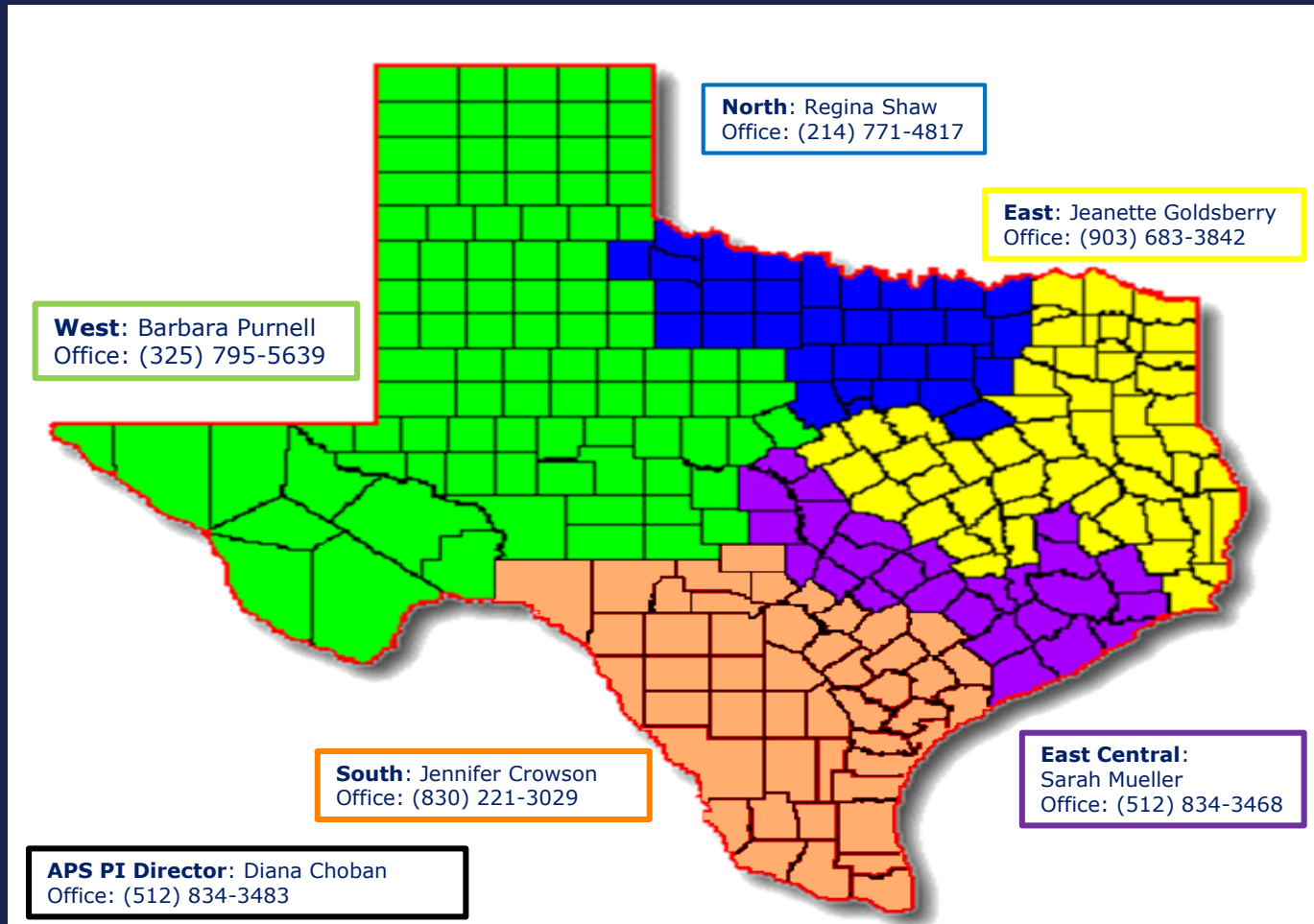
- Name, DOB, Medicaid#, and current address of the alleged victim
- Name, address, contact phone number of the service provider
- A brief description of the situation
- Details about the alleged perpetrator
- Current injuries and medical conditions
- Names and phone numbers of relatives, neighbors, and friends that might have knowledge of the situation
- Reporter should provide all appropriate contact information (reporter remains confidential)

# APS PI Districts and Program Administrators



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# Thank You

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**Send Questions to:**  
**[APSPolicy@dfps.state.tx.us](mailto:APSPolicy@dfps.state.tx.us)**