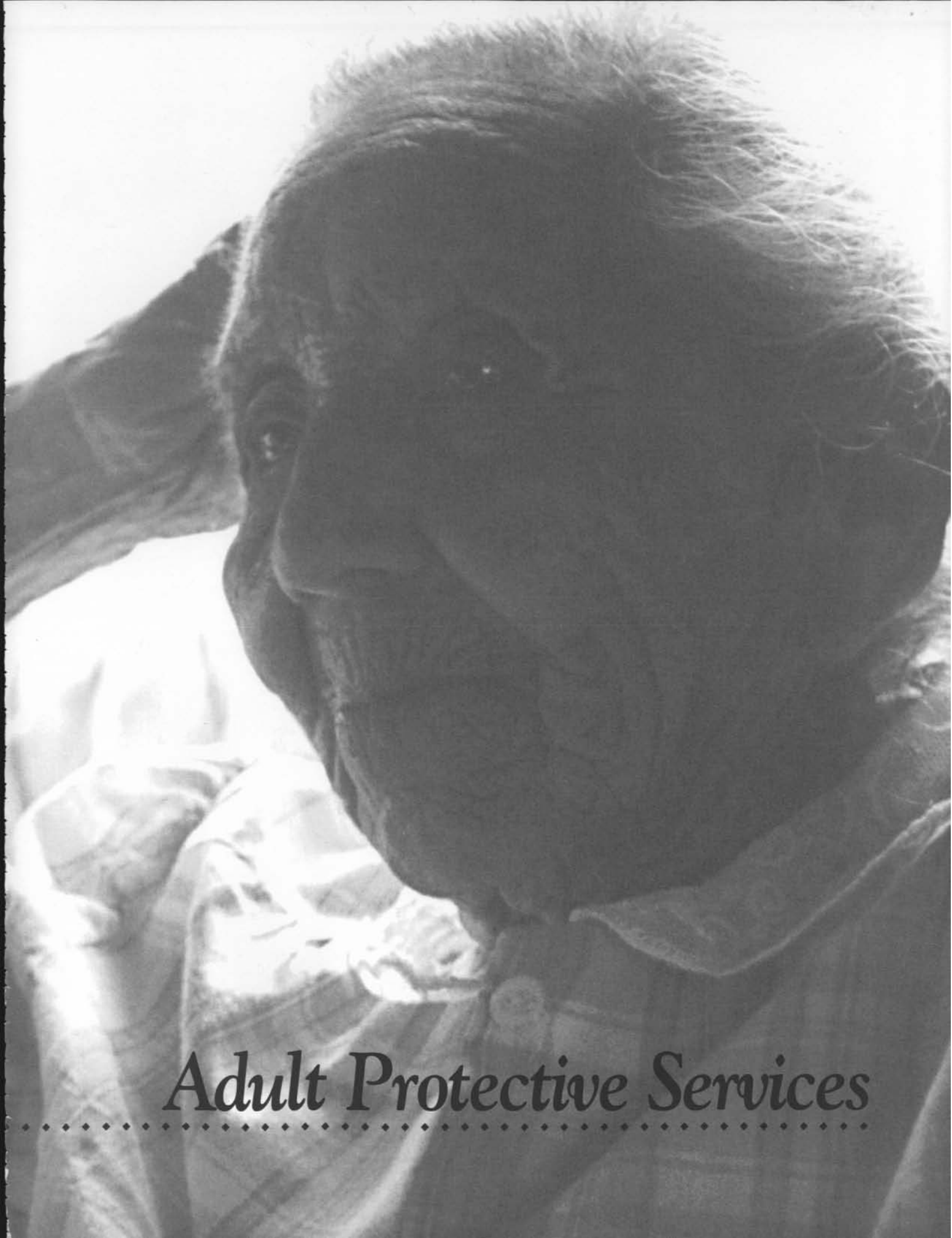

Adult Protective Services

Adult Protective Services

This year in Texas, an estimated 132,481 adults who are elderly or have disabilities were victims of maltreatment. While some were abused by family, friends, or acquaintances, others became unable to care for themselves and had no assistance. Even so, only 43,524 of these situations were reported to Adult Protective Services (APS), which is charged by state and federal law to help them.

Compared to other PRS programs such as Child Protective Services, APS is relatively new. The program was first recognized in federal statute in the mid-1970s when Congress enacted Title XX of the Social Security Act to strengthen the delivery of social services in the states. In order to receive a share of the Title XX funds, states were required to provide protective services to children, people who are elderly, and adults with disabilities reported to be abused, neglected, or exploited. States then began passing legislation to ensure that children and vulnerable adults were protected.

Chapter 48 of the Human Resources Code (HRC 48), passed initially in 1981 and amended several times since then, establishes the baseline for the APS program in Texas. This state law provides for:

- mandatory reporting of abuse, neglect, and exploitation of elderly persons and adults who are disabled, with a penalty for failure to report;
- receipt and investigation of all reports (unless patently false);
- initiation of investigations within 24 hours after receiving a report;
- assessment of the adult's capacity to understand the situation and the degree of danger it presents;
- requirement to notify law enforcement of all valid cases of physical abuse and caregiver neglect;

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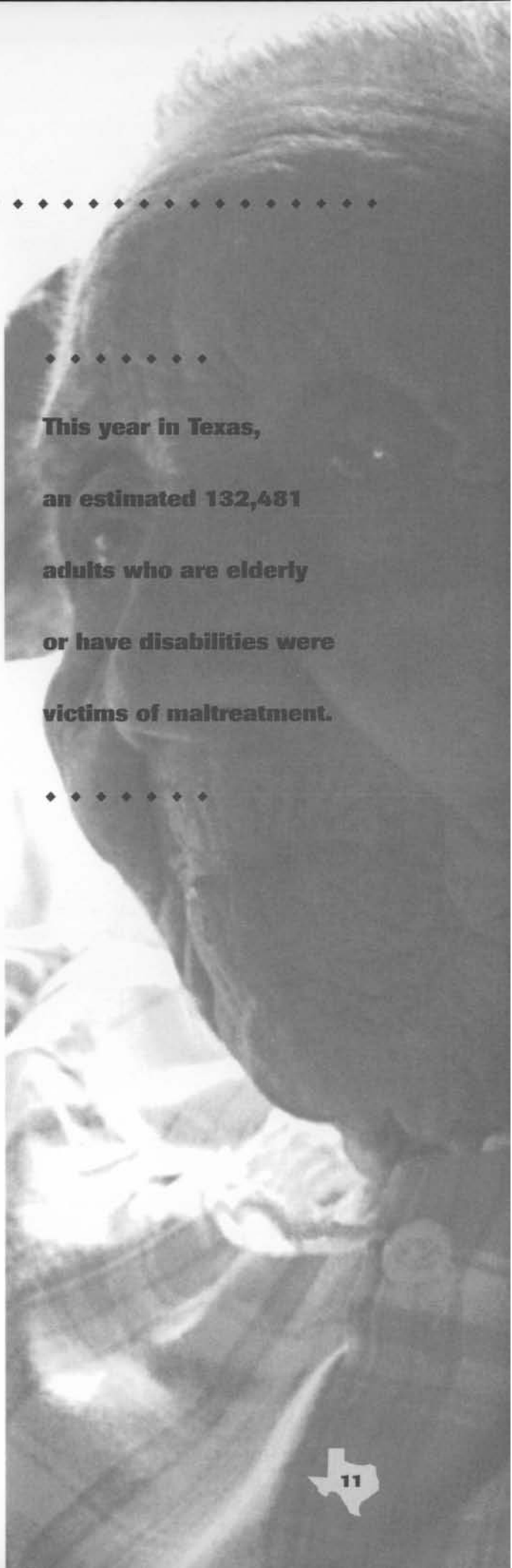


- provision of or arrangement for the services needed to prevent or alleviate maltreatment;
- guardianship of persons with severe disabilities who leave CPS' conservatorship;
- honoring an individual's right to self-determination;
- using the least restrictive alternative in the provision of protective services;
- authority to seek court orders when necessary to gain access to individuals, to prevent interference with the provision of voluntary protective services, to access the records needed to conduct investigations, and to provide emergency protective services;
- authority to initiate an emergency removal without a court order after hours and on holidays;
- confidentiality of case records; and
- review and oversight of investigations conducted by other state agencies.

Chapter 48 of the Human Resources Code also includes the following definitions of maltreatment:

Abuse is defined as "willful infliction of injury, unreasonable confinement, or cruel punishment" and includes:

- scratches, cuts, bruises, and burns;
- welts, scalp injury, and gag marks;
- sprains, punctures, broken bones, and bedsores;
- confinement;
- rape and other forms of sexual abuse; and
- verbal and psychological abuse.

Neglect is defined as "the failure to provide for one's self the goods or services which are necessary to avoid physical harm, mental anguish, or mental illness, or the failure of a caretaker to provide such goods or services" and includes:

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

Exploitation is defined as "the illegal or improper act or process of using the resources of an elderly or disabled person for monetary or personal benefit" and includes:

- taking Social Security or Supplemental Security Income (SSI) checks;
- abusing joint checking accounts; and
- taking property and other resources.

Community-based Investigations and Services

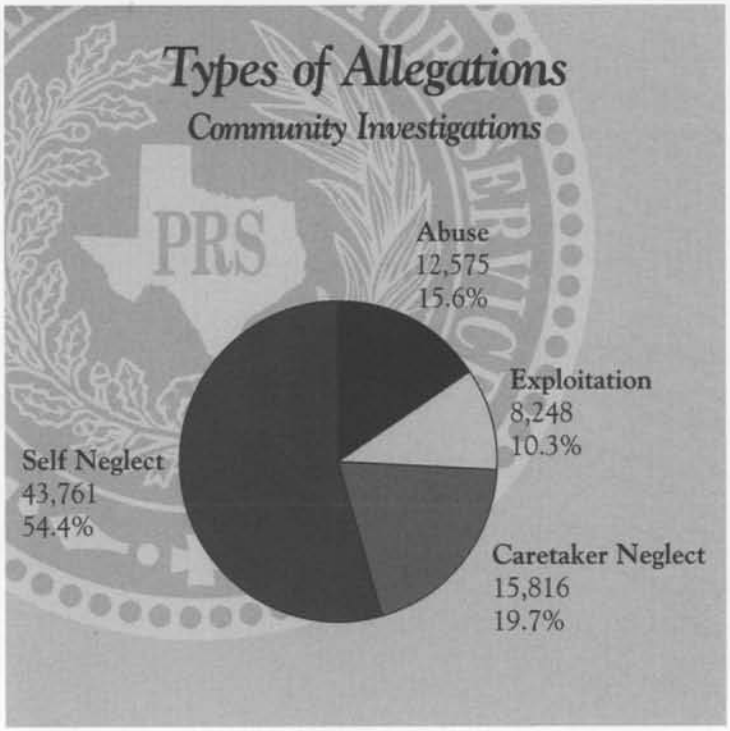
APS community-based staff receive and investigate reports of abuse, neglect, and exploitation of adults who are elderly or have disabilities. As appropriate in confirmed cases, they provide or arrange for services to alleviate the maltreatment.

Community-based staff provide services without regard to income to:

- persons who are age 65 or older,
- persons older than age 18 who have disabilities, and
- persons younger than age 18 who are mentally or physically incapacitated and have been declared legally to be adults, when these persons are alleged to have been abused, neglected, or exploited.

Typically, among the spectrum of APS clients are individuals who are:

- isolated,
- lacking a capable caregiver,
- ill,
- impoverished,
- experiencing substance abuse,
- experiencing mental illness in family dynamics,



- dependent upon an adult child or *vice versa*, or
- older adults caring for very old family members.

When the department receives reports of maltreatment, staff assign them priorities that determine how soon alleged victims will be seen by APS caseworkers.

Priority I reports allege that victims are in a state of serious harm or are in danger of death from abuse or neglect. A client must be seen within 24 hours of intake.

Priority II reports allege that victims are abused, neglected, or exploited, and, as a result, are at risk of serious harm. A client must be seen within three days of intake.

Priority III reports include all other reports alleging that victims are in a state of abuse or neglect. A client must be seen within seven days of intake.

Priority IV reports allege exploitation when there is no danger of imminent impoverishment or deprivation of basic needs. A client must be seen within 14 days of intake.

During investigations, caseworkers determine:

- whether the allegations of abuse, neglect, or exploitation are valid;
- whether clients need protective services;
- what services are needed;
- whether caregivers are willing to provide services or would agree to the provision of services;
- whether clients are capable of obtaining services for themselves and can bear the cost or whether they may be eligible for services from PRS or other state agencies;
- whether clients desire the services; and
- other pertinent information about clients and their situations.

What APS can accomplish in a given case is determined by many factors, including the skill of a worker, a client's capacity and willingness to accept help, a client's economic and social resources, and other resources in the community. When other resources can't be located, a worker may access "emergency client services" (ECS) funds to solve a particular client's problem.

Examples of short-term interventions paid for with ECS funds include personal care, heavy house cleaning, prescription medication, medical supplies and equipment, clothing, food, sundries, emergency shelter, medical and psychiatric assessment, critical transportation, restoration of utilities, and minor home repair.

In 1994, the program made significant gains in managing ECS funds. APS hired a staff person with expertise in contract administration who began regular meetings with regional staff responsible for APS contracts and provider agreements. These meetings focused on clarifying common issues, standardizing practices, reinforcing consistency, and preparing for the program's conversion to an automated system for tracking ECS expenditures.

The effort was coordinated with the design and implementation of the department's automa-

tion project, CAPS (Child and Adult Protective System), and will be fully integrated with the system when CAPS comes on line. Tested in July and August (before a September 1 start-up), this step will greatly improve the program's ability to manage its limited resources for purchased services.

APS casework effectiveness is severely hampered when emergency client services funds are lacking because finding and developing alternate community resources is very time-consuming, if not impossible. This problem worsens as caseloads increase. Often, the maltreatment cannot be alleviated if alternates are not available.

Premises that define the APS philosophy:

- Case resolution is client focused, individualized, and based on a social work model of problem-solving as opposed to approaches based on criminal prosecution or law enforcement.
- Vulnerable adults are APS' primary clients—not communities or families.
- Clients are presumed to be mentally competent and in control of decision making until facts prove otherwise.
- Clients will actively participate in defining problems and deciding the most appropriate course of action for resolution.
- Clients will exercise freedom of choice and the right to refuse services as long as they have the capacity to understand the consequences of their actions.
- Service alternatives that are pursued will be the least restrictive possible for clients; more intrusive remedies, such as guardianship or institutionalization, will be a last resort;
- When legal remedies are unavoidable, clients have a right to an attorney *ad litem* to represent their interests in court (an attorney *ad litem* is a court-appointed attorney whose role is to represent the client's interests).

Intervening in the abuse of vulnerable adults requires an array of human services that often are in short supply. APS staff have identified the following resources that, if more fully developed and widely available, would help to prevent or alleviate maltreatment:

- adult day care;
- adult foster homes;
- affordable housing;
- support services for caregivers;
- financial management services;
- funding to make homes accessible;
- geriatricians (particularly in non-metropolitan areas);
- guardianship services;
- hospice;
- in-home chore and personal-care services;
- mental health services;
- representative payees;
- respite for caregivers; and
- transportation.

Recognizing the human service needs of vulnerable Texans, the APS program participated in the department's effort to acquire more federal funds for its clients. As a direct provider of social casework services for abused and neglected adults who are Medicaid-eligible, APS participated in the department's application for Title XIX (Medicaid) targeted case management reimbursement. If the state plan is approved as revised, a new source of federal funds for the APS program will become available.

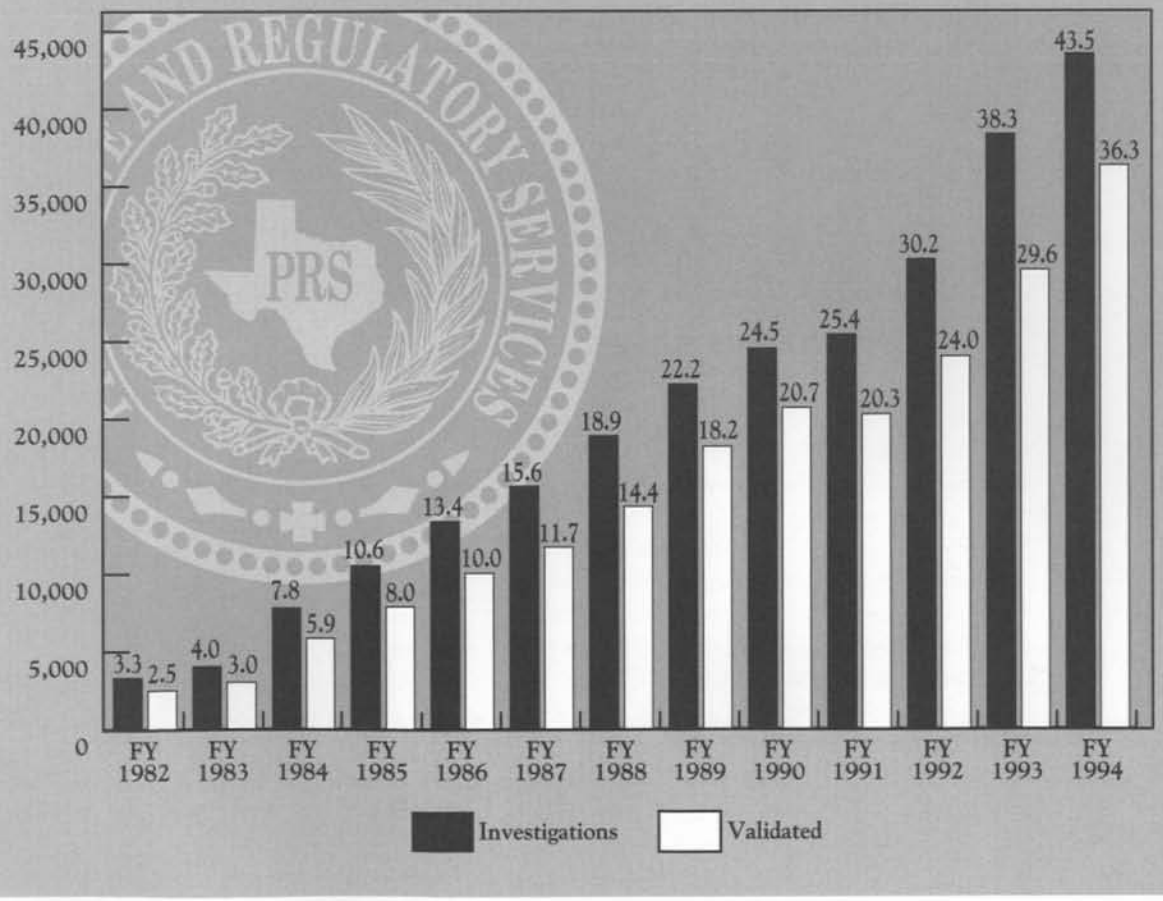
In response to the CAPS contractor's needs for staff input, several APS staff from the department's regional offices and state headquarters have been assigned to work either full or part time on the CAPS project. These staff participate in work groups who analyze the current work flow and develop the requirements for the new system. Their work also includes, but is not limited to:

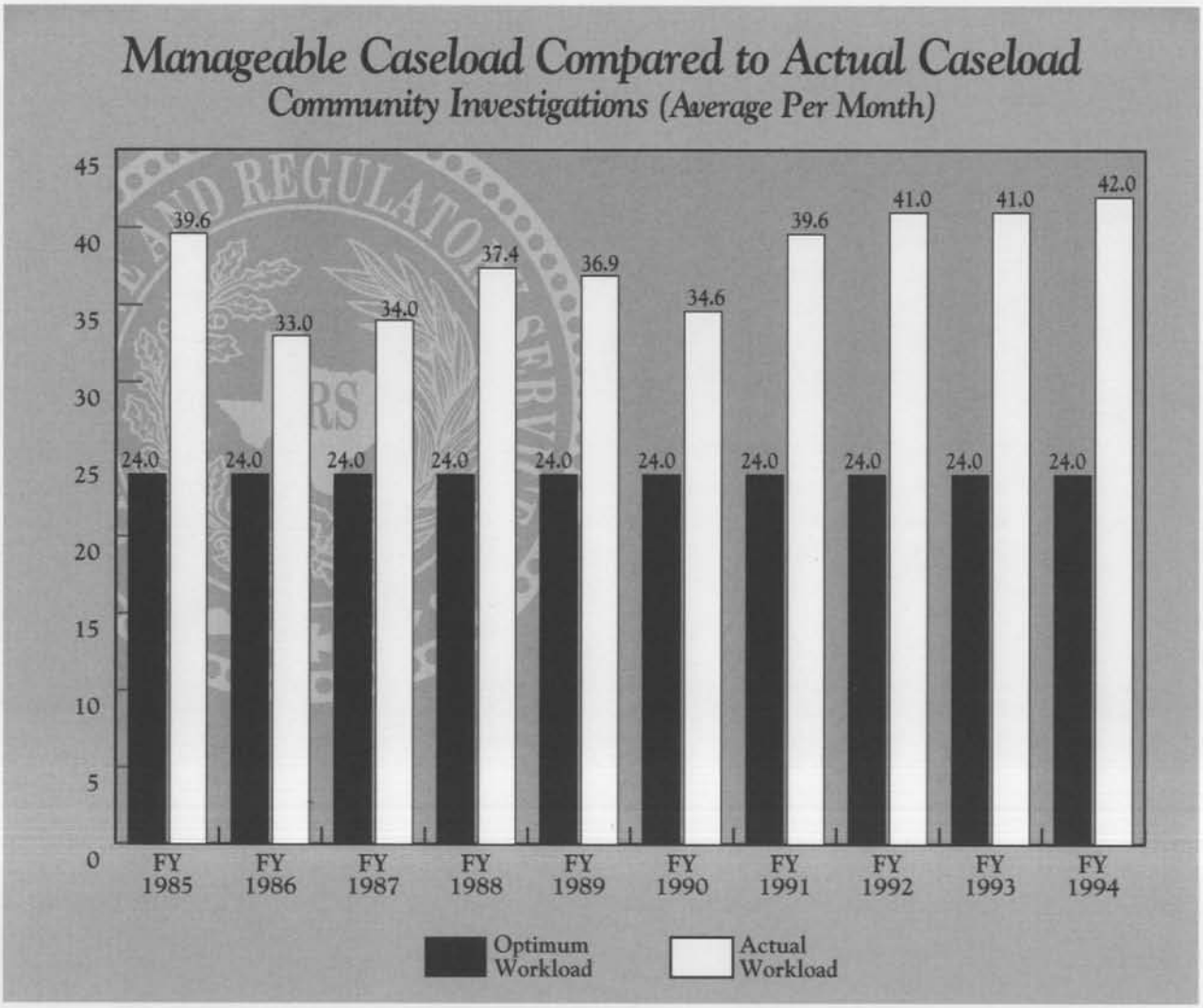
- resolving policy issues that arise during the project's design;
- reviewing what is being provided through the project;
- developing training modules;
- planning for changes to management philosophy;
- testing custom software before it is distributed to the department's field offices; and
- designing the project's evaluation.

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.

In the department's regional offices, communi-

Community Intakes and Validations since 1982





ty outreach resulted in ongoing cooperative efforts to address the problem of adult abuse and neglect. For example, in San Antonio and other metropolitan areas, practicum students and interns from local universities volunteer with APS units. Often, such students later apply for and are hired as caseworkers.

In some cities, medical students work for several weeks with APS to become more familiar with community problems and characteristics of patients. Likewise, coordinating and cooperating with law enforcement agencies continue to be vital. For example, during the summer of 1994 in Austin, APS was part of a multi-agency effort that began planning a project that would help fill gaps in services to abuse victims in the Austin-Travis County area. The project will be administered by the Austin Police Department's Victim's Assistance Unit and will serve victims of family violence of all ages.

Churches are adopting APS workers and establishing funds to help APS clients. In one especially noteworthy event in April 1994, the executor of the George Baer trust donated $32,000 to the Brookhill Baptist Church in San Antonio to benefit elderly APS clients in Bexar County.

Advisory groups continued to function in various parts of the state, and in El Paso County in April, a new APS advisory council was formed. This group has established four committees to focus on specific program needs: Public awareness and education, service coordination, resource development, and multi-disciplinary approaches to resolving complex cases. The

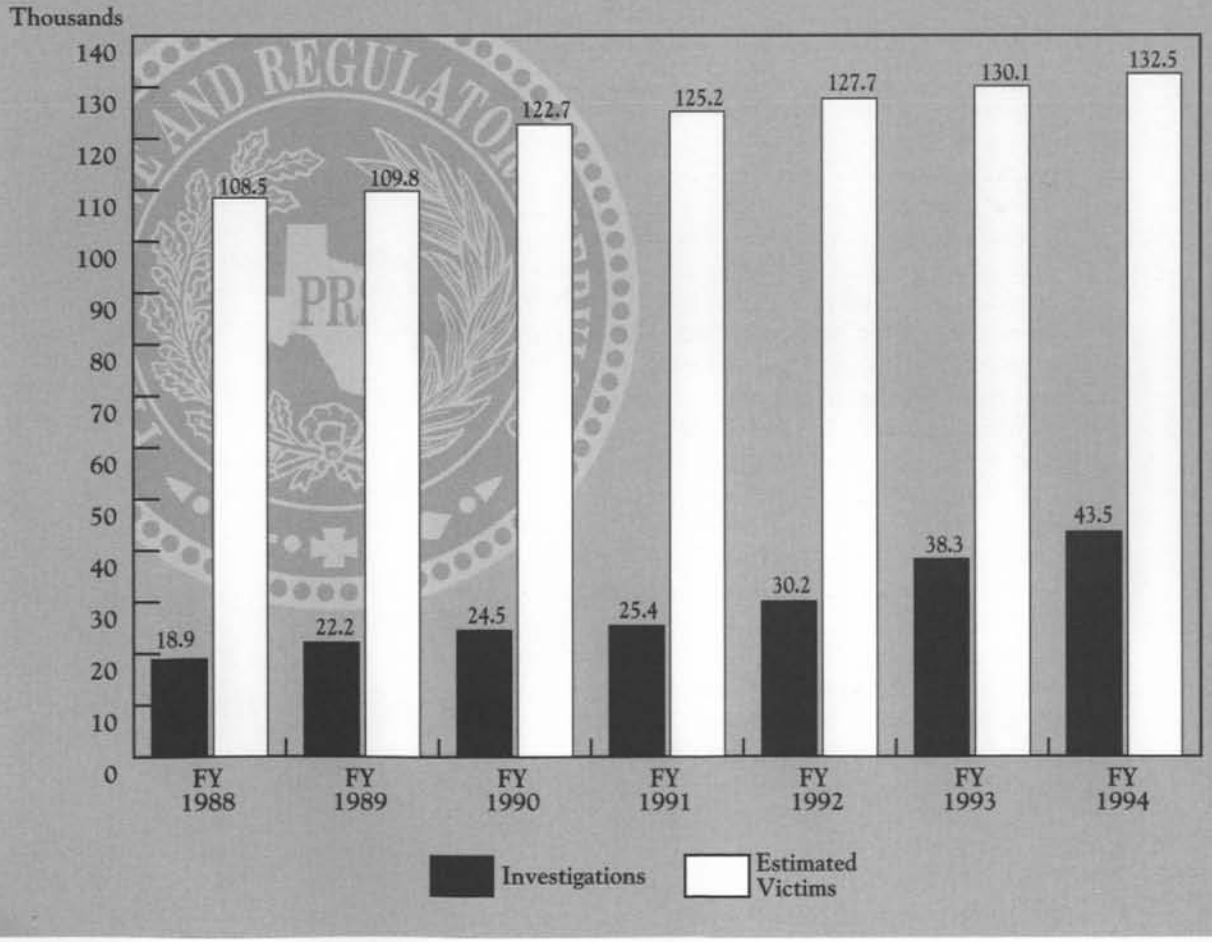
council is composed of civic leaders and representatives of health and human services agencies, the private sector, corporations, law enforcement, the medical community, universities, civic organizations, and the media. Its membership demonstrates an impressive community commitment to prevent and remedy maltreatment of vulnerable adults.

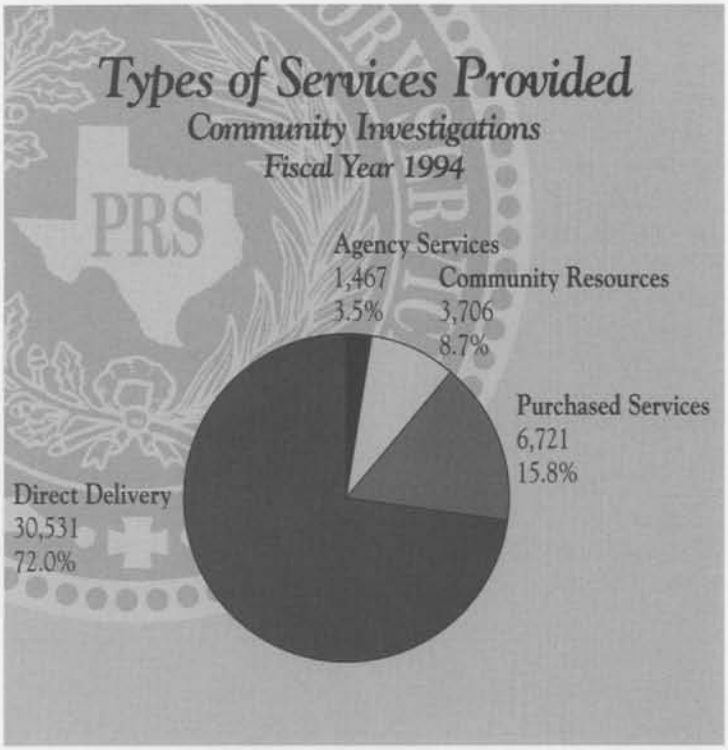
APS outreach this fiscal year crossed international boundaries when an APS specialist in Del Rio was selected by the American Public Welfare Association (APWA) to visit Japan in a U.S.-Japan social worker exchange project. The U.S. (and Texas APS) will in turn host visitors from Japan in a later phase of the project.

The annual APS conference continued in its 11th year, hosting in conjunction with the APWA participants from 42 states and one foreign country. Focusing on direct practice and related issues, the conference provided an opportunity for concurrent meetings of the National Association of Adult Protective Services Administrators, the National Committee for the Prevention of Elder Abuse, and the National Coalition on Abuse and Disability. Conference attendance this year reached an all-time high.

Effective September 1993, APS was given the responsibility of assuming guardianship of individuals with severe disabilities aging out of Child Protective Services (CPS) conservator-

Cases Reported Compared to Estimated Population of Victims





ship. The challenge of this mandate has been not only to provide staff as guardians, but to find appropriate resources for the long-term care of these clients who as adults are no longer eligible for much of the state and federal assistance they received through CPS.

During fiscal year 1994, joint policy was developed by the APS and CPS programs to address responsibilities and procedures, and staff drafted a guardianship section of the APS handbook. While the number of cases leaving CPS was relatively small this year, a comparable number of referrals is expected next year from one region alone, and the needs of these clients for specialized care are extreme.

The APS caseload grew dramatically in fiscal year 1994. Although a manageable caseload in APS is considered to be 24 cases a month, this year the caseload averaged 42 cases per month per worker. While measures such as abbreviated documentation have brought some workload relief to over-burdened staff, the demographic realities of an aging population continue to drive the number of cases upward.

Inevitably, the number of frail elders and adults with disabilities will increase each year, and their needs will be affected by societal conditions beyond the department's control, such as substance abuse, homelessness, and unemployment. Concurrently, problems related to turnover, burnout, liability, span of control, staff development, and worker safety will continue to increase in magnitude.

To manage the workload with existing staff, the program began drafting policy in fiscal year 1994 aimed at further limiting the workload. Specifically, this new policy will curtail investigations in certain situations and expand the use of administrative closures. At the same time, legislative initiatives were developed to allow further streamlining of procedures and greater program flexibility.

In fiscal year 1994, $18.5 million was spent on community-based investigations and direct delivery and $4.1 million was spent on purchased services.

In fiscal year 1994, APS received and initiated investigations on 43,524 reports, a 14 percent increase over the last fiscal year. About 64 percent of APS clients are 65 years of age or older; 36 percent are younger; almost all (80 percent) have some degree of physical or mental impairment. In 82 percent of the completed investigations, clients were found to be abused, neglected, or exploited and therefore in need of protective services. Of these confirmed cases, 85 percent received some type of service beyond investigation, either direct or purchased or both. During the year, 6,721 clients, or 15 percent of the caseload, received purchased services. Despite these numbers, it is estimated that only 33 percent of the estimated population of victims, thought to number 132,481 in Texas, was reported to APS this year.

Facility-based Investigations

In fiscal year 1993, pursuant to House Bill 7, 72nd Texas Legislature, the functions, programs, and activities of the Texas Department of Mental Health and Mental Retardation (TxMHMR) relating to abuse and neglect investigations were transferred to PRS. These

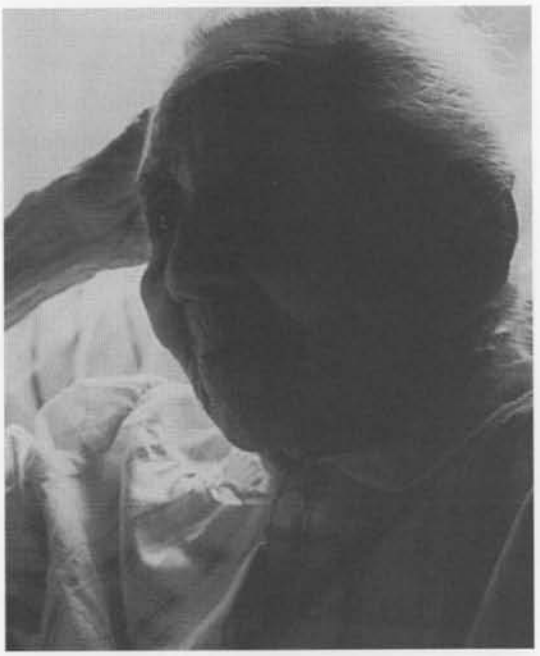
functions and programs were placed within the APS program. This charge included:

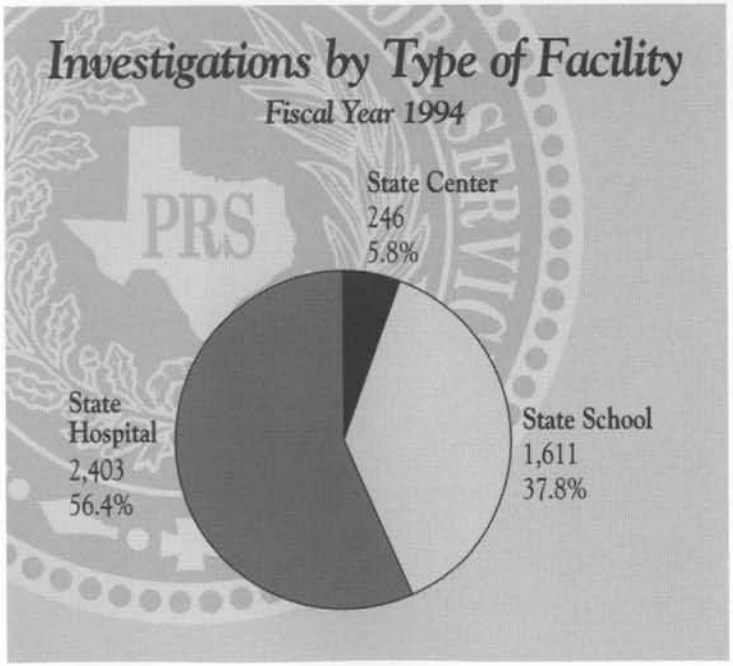
- the responsibility for investigating abuse and neglect in TxMHMR state schools, state hospitals, state centers, and their contractors;
- oversight of investigations in community mental health/mental retardation centers and private psychiatric hospitals; and
- rule-making authority regarding investigations in state facilities, community centers, and private psychiatric hospitals.

Legislation passed by the 1993 Texas Legislature moved the licensure of private psychiatric hospitals from TxMHMR to the Texas Department of Health (TDH), effective Sept. 1, 1993.

Investigators must be available to each facility to receive allegations 24 hours a day. Upon receiving an allegation of abuse or neglect, a facility investigator:

- immediately notifies the head of the facility or designee;
- notifies law enforcement within one hour of abuse-related allegations of a criminal nature;
- begins investigating immediately (i.e., interviews complainant, ensure safety of victim);
- interviews and gathers written statements from the victim, the accused, witnesses, and others who can furnish information;
- ensures photographs are taken of abuse-related injuries within 24 hours;
- completes the investigation within 10 working days and submits it to the head of the facility and to law enforcement (if previously notified); and
- enters data into the management information system.





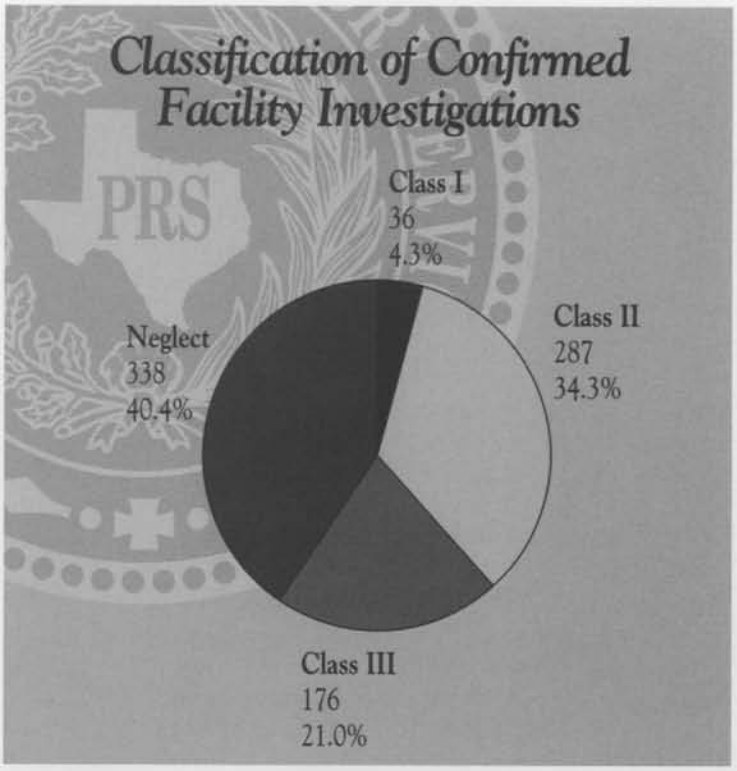
During fiscal year 1994, APS continued to work on integrating facility investigations into its operations. The program also coordinated closely with TxMHMR and advocates to draft the new rules for facility investigations called for by the 73rd legislative session. Staff further redefined and regularly delivered classroom entry-level training for facility investigators. Supervisors were trained on facility investigations policy and procedures.

Geographic and budgetary constraints have made it necessary generally to deploy facility investigators into what heretofore had been solely community-based units. However, an additional specialized unit of facility investigators was created in Dallas this year to comple-

ment existing units in San Antonio and Dallas. More specialized units are planned, as funding permits, to better enable staff to meet the demands of facility investigations, which require a more rigorous burden of proof than do community investigations.

A program improvement committee for facility investigations, consisting of all levels of the program's staff, continued to work on facility issues. This work included the standardization of case-reading forms for use statewide to help measure worker performance and compliance with program standards. Regional quality assurance plans also were developed and in place by the end of the year.

In fiscal year 1994, staff conducted 4,260 investigations in TxMHMR facilities, as compared to 4,408 investigations the previous year. Of these, 6.5 percent were classified as "unfounded," meaning that the reports were deemed to be spurious. Of the remaining investigations conducted, 21.1 percent were substantiated, 72.1 percent were not confirmed, and in 6.8 percent of the cases, a determination could not be made. The average monthly caseload for facility investigators was 10; the manageable caseload is considered to be 7 investigations per month.



In fiscal year 1994, $2.8 million was spent on facility investigations.

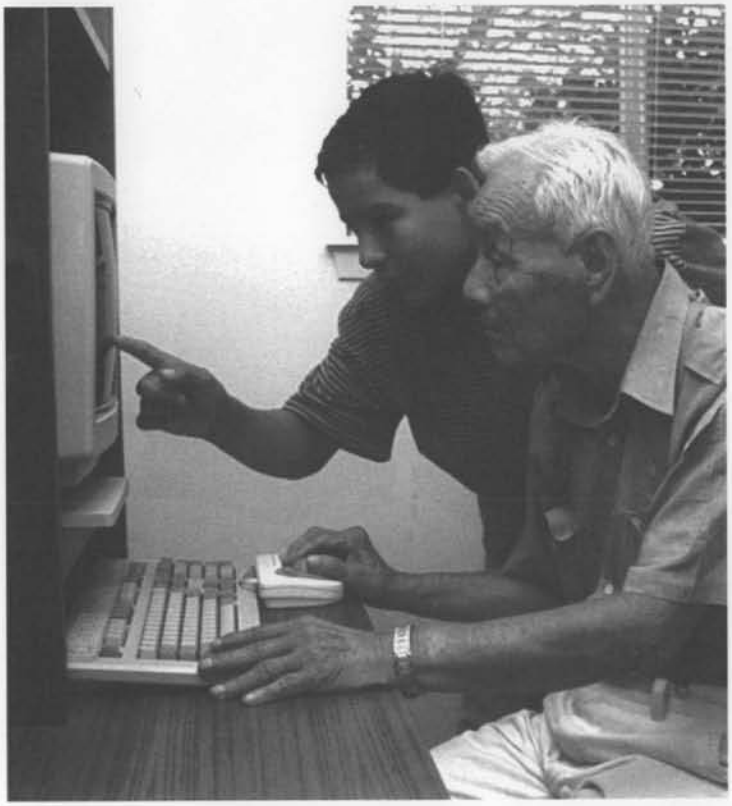
Investigations in Community Mental Health and Mental Retardation Centers

There are 35 community mental health/mental retardation centers across Texas. Each center is governed by a local board of trustees. TxMHMR contracts with centers to provide a specific array of inpatient and outpatient services to people with mental illness and mental retardation. Although community centers receive funding from a variety of sources, the majority of financial support comes from TxMHMR.

During fiscal year 1994, APS staff worked with the Texas Council of Community Mental Health and Mental Retardation Centers, advocates, and other stakeholders to resolve issues concerning the responsibility for abuse and neglect investigations in community centers. As a result, a plan was developed to phase in APS' assumption of this role during fiscal year 1995.

However, in fiscal year 1994, each center remained responsible for establishing policy for reporting and investigating allegations of abuse and neglect in its programs and those of its contractors. This policy was to include:

- the delineation of reporting responsibility of employees, contractors, and agents to the executive director;
- procedures for the executive director or designee to promptly and objectively investigate each alleged case;
- provisions for reporting criminal acts to law enforcement agencies;
- provisions for reporting allegations to clients' parents, guardians, or families within 24 hours;



- submitting written investigative reports to the department's state headquarters within 10 days of initial allegation; and
- procedures for implementing sufficient disciplinary action.

APS' state headquarters' oversight included:

- reviewing investigations and making recommendations to centers for corrective and preventive actions;
- determining when to close all investigations; and
- reporting cases involving registered nurses and medical doctors to the respective boards of examiners.

Facility Investigations

	Confirmed Cases	Inconclusive	Unconfirmed	Total Intakes*
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	870	320	2,567	3,757
1994	836	269	2,854	3,959

* Does not include intakes that were classified as "unfounded," meaning that the report was deemed to be spurious.