

## 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.

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

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

**Allegation (In-Home)** - 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.

**Allegation (Facility Investigations Program)** - A report by an individual that a person receiving services in a state operated and/or contracted setting that serves children and adults with mental illness or mental retardation has been or is in a state of abuse, neglect, or exploitation.

**Alleged Perpetrator - (In-Home)** A person who is reported to be responsible for the abuse, neglect or exploitation of a person who is elderly or who is an adult with a disability.

**Alleged Perpetrator- (Facility Investigations Program)** - Staff employed in a state operated and/or contracted setting that serves persons with mental illness or mental retardation who is reported to have abused, neglected or exploited a person served in a state operated and/or contracted setting.

**Alleged Victim - (In-Home)** An elderly person or an adult with a disability who has been reported to adult protective services staff to be in a state of or at risk of abuse, neglect, or exploitation.

**Alleged Victim (Facility Investigations Program)** - A person served who is alleged to have been abused, neglected, or exploited.

**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, such as 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 and has an ongoing relationship with the alleged victim. In previous years Adult Protective Services in-home cases have been referred to as “community” cases. To avoid confusion with investigations in community facility centers, the title “community” is no longer used when referring to the APS in-home program area.

**APS Facility Investigations Program** - Investigations conducted by APS related to abuse, neglect, or exploitation of persons with disabilities served by state operated mental health and mental retardation facilities and/or state contracted settings.

**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.

**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 (In-Home)** - 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.

**Confidentiality** - Records relating to the department’s protective clients are not open to public inspection.

**Confirmed (Facility Investigations)** - There is a preponderance of credible evidence to support that abuse, neglect, or exploitation occurred.

**Court-Authorized Entry** - To carry out an investigation of reported abuse, neglect, or exploitation, the court may authorize the department to enter the premises of an elderly person or an adult with a disability.

**Designated Perpetrator - (In-Home)** A person who has been determined in a validated finding to have abused, neglected or exploited an elderly person or an adult with a disability.

**Designated Perpetrator (Facility Investigations Program)** - Staff working in a state operated and/or contracted setting serving persons with mental illness or mental retardation who has been determined in a confirmed finding to have abused, neglected or exploited a person served in a state operated and/or contracted setting.

**Designated Victim (In-Home)** - An elderly person or an adult with a disability for whom a finding of self-neglect or suicidal threat or abuse, neglect, or exploitation by a caretaker, family member or person with an ongoing relationship has been validated.

**Designated Victim (Facility Investigations Program)** - A person served who has been abused, neglected, or exploited.

**Developmental Disability** - A severe, chronic disability of an individual that:

- results from a mental and/or physical impairment;
- begins before age 22;
- is likely to be life-long;
- results in major limitations in three or more areas of everyday functioning (self-care, receptive and expressive language, learning, mobility, self-direction, capacity for independent living, and economic self-sufficiency); and
- reflects the individual's need for special services that are individually planned and coordinated.

**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.

**Purchased Client Services (PCS)** - Purchased client services provided in accordance with §48.002(5) of the Human Resources Code, includes, but is 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 purchased client services are only provided if those specific services are not available through other state and local resources. A person who is elderly or an adult with disabilities is eligible to receive purchased client services from Adult Protective Services in accordance with §§48.002(5) and 48.202 of the Human Resources Code when a service plan has been developed by the department under these sections that indicates that purchased 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 age 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 (In-Home)** - Any use of verbal communication or other behavior to humiliate, intimidate, vilify, degrade, or threaten with harm.

**Emotional or Verbal Abuse (Facility Investigations Program)** - Any act or use of verbal or other communication, including gestures to curse, vilify or degrade a person served by a Facility facility or program, or threaten a person served with physical or emotional harm. The act or communication must result in observable distress or harm to the person served by a facility or program, or be of such nature that a reasonable person would consider it harmful or causing distress.

**Exploitation (In-Home)** - 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.

**Exploitation (Facility Investigations Program)** - The illegal or improper act or process of using a person served by a facility or program or the resources of a person served by a facility or program for monetary or personal benefit, profit, or gain when the alleged perpetrator is an employee, agent, or contractor.

**Facility** - State Supported Living Centers (SSLC), State Hospitals, privately operated ICFs/MR, and the Rio Grande State Center.

**Facility Non-Institutional Settings** - Home and Community-Based Waiver (HCS-W) services, Texas Home Living Waiver program and Community Facility Centers. Community Centers may contract to provide a number of services including Intermediate Care for Persons with Mental Retardation (ICF-MR), home and community-based services (HCS) and adult day programs.

**False Reports** - A person commits an offense if the person knowingly or intentionally reports information that the person knows is false or lacks factual foundation. Such an offense is a Class B misdemeanor.

**Immunity** - A person filing a report, participating in an investigation, testifying, or participating in any judicial proceeding arising from a petition, report, or investigation is immune from civil or criminal liability. A person, including an authorized department volunteer, medical personnel, or law enforcement officer, who participates in an investigation or the provision of services is also immune as long as the person is acting in good faith.

**Incapacitated Person** - An adult individual who, because of a physical or mental condition is substantially unable to provide food, clothing, or shelter for himself or herself, to care for the individual's own physical health, or to manage the individual's own financial affairs; a missing person; or a person who must have a guardian appointed to receive funds due the person from any governmental source. (A minor is also a legally incapacitated person.)

**Incidence of Maltreatment** - Ratio of the number of validated 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.

**Inconclusive (Facility Investigations)** - There is not a preponderance of credible evidence to indicate that abuse, neglect, or exploitation did or did not occur due to lack of witnesses or other available evidence.

**Information Management Protecting Adults and Children in Texas (IMPACT)** - The browser-based software application by which Adult Protective Services (APS) and Child Protective Services (CPS) staff document cases.

**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 harm or 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 September 1, the caseworker must attempt a face-to-face visit on or before September 4. 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, the report is referred to the Texas Department of Aging and Disability 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 Facility Investigations Program -**

**Priority I** - Priority I reports have a serious risk that a delay in the investigation will impede the collection of evidence, or allege that the victim has been subjected to maltreatment by an act or omission that caused or may have caused serious physical or emotional harm. Priority I reports include, but are not limited to: death, sexual abuse, serious physical abuse injury, serious verbal or emotional abuse, or incitement to harm self or others. 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** - Priority II reports have some risk that a delay in investigation will impede the collection of evidence, or allege that the victim has been subjected to maltreatment by act or omission that caused or may have caused non-serious physical injury, or emotional harm not included in Priority I. Priority II reports include, but are not limited to, the following: non-serious physical injury, non-serious verbal/emotional abuse, and/or exploitation. The investigator must attempt a face-to-face contact with the alleged victim within three calendar days of receipt of the report by the department.

**Priority III** - Priority III reports allege maltreatment that would otherwise be classified as Priority I or II but the alleged incident occurred more than 30 days prior to the date of the report and there is no known or perceived risk. The investigator must attempt a face-to-face contact with the alleged victim within seven calendar days of receipt of the report by the department. Investigations in SSLCs and the ICF/MR component of the Rio Grande State Center can only be PI or PII.

**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.

**Invalid (In-Home)**- based on the standard of preponderance of the evidence, it is more likely than not that the abuse, neglect or exploitation did not occur.

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

**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 (Facility Investigations Program)** - When the alleged perpetrator is a mental health or mental retardation employee, agent, or contractor, neglect is defined as a negligent act or omission by any individual responsible for providing services to a person served by a facility or program, which caused or may have caused physical or emotional injury or death to a person served or which placed a person served at risk of physical or emotional injury or death. Neglect includes, but is not limited to, the failure to:

1. establish or carry out an appropriate individual program plan or treatment plan for a person served, if such failure results in a specific incident or allegation involving a person served by a facility or program;
2. provide adequate nutrition, clothing, or health care to a specific person served in a residential or inpatient program; or
3. provide a safe environment for a specific person served, including the failure to maintain adequate numbers of appropriately trained staff if such failure results in a specific incident or allegation involving a person served by a facility or program.

**Objection to Medical Treatment** - Medical treatment may not be ordered for clients who object to treatment on religious grounds.

**Physical Abuse (Facility Investigations Program)** - When the alleged perpetrator is an employee, agent, or contractor, physical abuse is defined as:

1. 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 a person served;
2. an act of inappropriate or excessive force or corporal punishment, regardless of whether the act results in a physical injury to a person served; or
3. the use of chemical or bodily restraints on a person served not in compliance with federal and state laws and regulations.

**Protective Services (In-Home)** - 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 chapter 48 of the Human Resource Code. Protective services are provided in In-Home cases and to recipients of HCSW services.

**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 (In-Home)** - 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.

**Sexual Abuse (Facility Investigations Program)** - any sexual activity, by a mental health or mental retardation employee, agent, or contractor, including but not limited to:

1. kissing a person served with sexual intent;
2. hugging a person served with sexual intent;
3. stroking a person served with sexual intent;
4. fondling a person served with sexual intent;
5. engaging in with a person served:
  - sexual conduct as defined in the Texas Penal Code, §43.01; or
  - any activity that is obscene as defined in the Texas Penal Code, §43.21;
6. requesting, soliciting, or compelling a person served to engage in:
  - sexual conduct as defined in the Texas Penal Code, §43.01; or
  - any activity that is obscene as defined in the Texas Penal Code, §43.21;
7. in the presence of a person served:
  - engaging in or displaying any activity that is obscene, as defined in the Texas Penal Code §43.21; or
  - requesting, soliciting, or compelling another person to engage in any activity that is obscene, as defined in the Texas Penal Code §43.21;
8. committing sexual exploitation as defined in §711.15 of this title (relating to “How is sexual exploitation defined?”) against a person served;
9. committing sexual assault as defined in the Texas Penal Code §22.011, against a person served;
- 10 .committing aggravated sexual assault as defined in the Texas Penal Code, §22.021, against a person served; and
11. causing, permitting, encouraging, engaging in, or allowing the photographing, filming, videotaping, or depicting of a person served if the employee, agent, or contractor knew or should have known that the resulting

photograph, film, videotape, or depiction of the person served is obscene as defined in the Texas Penal Code, §43.21, or is pornographic.

**Unable to Determine (In-Home)** - a preponderance of the available evidence is insufficient to support a finding of Valid or Invalid.

**Unconfirmed (Facility Investigations Program)** - there is a preponderance of credible evidence to support that abuse, neglect, or exploitation did not occur.

**Unfounded (Facility Investigations Program)**- evidence gathered indicates that the allegation is spurious or patently without factual basis.

**Valid (In-Home)** - based on the standard of preponderance of the evidence, it is more likely than not that the abuse, neglect or exploitation occurred.

## Child Protective Services Program

**CPS Abuse and Neglect Definitions**-The principal governing legislation for CPS investigations is Chapter 261 of the Texas Family Code (TFC). The TFC definitions of abuse or neglect investigated by CPS are:

**Physical Abuse** - Physical injury that results in substantial harm to the child, or the genuine threat of substantial harm from physical injury to the child, including an injury that is at variance with the history or explanation given and excluding an accident or reasonable discipline by a parent, guardian, or managing or possessory conservator that does not expose the child to a substantial risk of harm; failure to make a reasonable effort to prevent an action by another person that results in physical injury that results in substantial harm to the child; the current use by a person of a controlled substance as defined by Chapter 481, Health and Safety Code, in a manner or to the extent that the use results in physical injury to a child; or causing, expressly permitting, or encouraging a child to use a controlled substance as defined by Chapter 481, Health and Safety Code.

**Sexual Abuse** - Sexual conduct harmful to a child's mental, emotional, or physical welfare, including conduct that constitutes the offense of indecency with a child under Section 21.11, Penal Code, sexual assault under Section 22.011, Penal Code, or aggravated sexual assault under Section 22.021, Penal Code; failure to make a reasonable effort to prevent sexual conduct harmful to a child; compelling or encouraging a child to engage in sexual conduct as defined by Section 43.01, Penal Code; causing, permitting, encouraging, engaging in, or allowing the photographing, filming, or depicting of the child if the person knew or should have known that the resulting photograph, film, or depiction of the child is obscene (as defined by the Penal Code) or pornographic; or causing, permitting, encouraging, engaging in, or allowing a sexual performance by a child as defined by 43.25, Penal Code.

**Emotional Abuse** - Mental or emotional injury to a child that results in an observable and material impairment in the child's growth, development, or psychological functioning; causing or permitting the child to be in a situation in which the child sustains a mental or emotional injury that results in an observable and material impairment in the child's growth, development, or psychological functioning; or the current use by a person of a controlled substance as defined by Chapter 481, Health and Safety Code, in a manner or to the extent that the use results in mental, or emotional injury to a child.

**Neglectful Supervision** - Placing the child in or failing to remove the child from a situation that a reasonable person would realize requires judgment or actions beyond the child's level of maturity, physical condition, or mental abilities and that results in bodily injury or a substantial risk of immediate harm to the child; or placing a child in or failing to remove the child from a situation in which the child would be exposed to a substantial risk of sexual conduct harmful to the child.

**Medical Neglect** - Failing to seek, obtain, or follow through with medical care for a child, with the failure resulting in or presenting a substantial risk of death, disfigurement, or bodily injury or with the failure resulting in an observable and material impairment to the growth, development, or functioning of the child.

**Physical Neglect** - Failure to provide the child with food, clothing, or shelter necessary to sustain the life or health of the child, excluding failure caused primarily by financial inability unless relief services had been offered and refused.

**Refusal to Assume Parental Responsibility** - Failure by the person responsible for a child's care, custody, or welfare to permit the child to return to the child's home without arranging for the necessary care for the child after the child has been absent from the home for any reason, including having been in residential placement or having run away.

**Abandonment** - The leaving of a child in a situation where the child would be exposed to a substantial risk of physical or mental harm, without arranging for necessary care for the child, and a demonstration of an intent not to return by a parent, guardian, or managing or possessory conservator of the child.

**Children in Foster Care** - All children in DFPS' legal responsibility who are in a placement paid by DFPS or other public facility. These placements include foster homes, foster group homes, institutions, residential treatment facilities, and juvenile facilities. This is a subset of Children in Substitute Care.

**Children in Substitute Care** - Children in Substitute Care - Children under 18 years of age in DFPS' legal responsibility who are removed and placed outside their own home (home of origin). This includes foster homes, institutions, foster group homes, residential treatment facilities, hospitals, adoptive homes, juvenile facilities, kinship care placements, and independent living arrangements. Also included are the youth who age out of DFPS' legal responsibility and continue in foster care placements to complete vocational training by age 19 or to graduate from high school before they turn 22 years old.

**Kinship care**- The term used to describe those situations in which children, who are no longer able to live with their own parents, are cared for by relatives or other people known as "fictive kin" that have a significant relationship with the child or the child's family, such as a God Parent or family friend.

**Verified Kinship Caregiver (Foster Parent)** - A verified kinship caregiver is licensed or verified as a foster parent to provide 24-hour residential care for a child, in accordance with Chapter 42 of the Human Resources Code and related regulations. Verification as a foster parent is offered by either DFPS through the CPS Foster and Adoptive Home Development program (FAD); or a private child-placing agency.

**Strengthening Families Initiative (SFI)** - The Strengthening Families Initiative is a specific Family-Based Safety Services program designed to offset certain poverty-related factors related to child abuse and neglect. It utilizes federal TANF funds to provide benefits and services to eligible families working with CPS to avoid having their children removed from the home and that speeds the reunification of children with their families. Components include monetary benefits (maximum \$250) and goods and services (maximum \$3,000) provided to families during the life of a case to help meet the child's needs, maintain child safety, relieve stress of the family and enhance family strengths and functioning.

**Children in the Legal Responsibility of the Texas Department of Family and Protective Services** - All children for whom the courts have appointed the Texas Department of Family and Protective 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 there is an immediate danger to the physical health or safety of a child, the Texas Family Code(TFC) provides three options for intervention by DFPS into a family: (1) emergency removal of the child from the home prior to obtaining a court order; (2) removal of the child after obtaining an ex parte order; or, (3) removal of the child after notice and hearing. Within 14 days from the date the child is taken into possession, a Full Adversary Hearing is held at which time the child is either returned home or if there is a continuing danger, temporary orders for managing conservatorship are issued. Within 12 months from the order appointing DFPS as the child's temporary managing conservator, the court must either return the child to the parent and dismiss the suit, appoint a parent, relative, or DFPS as managing conservator on a permanent basis, or grant a one-time extension of the lawsuit, not to exceed 180 days.

**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. The objectives of the investigation are to ensure child safety, determine whether abuse or neglect occurred, determine whether children are at risk for abuse or neglect in the future, provide child or family needed safety services and refer the family to services available in the community, if needed. At the conclusion of the investigation, staff must assign a disposition to each allegation to specify conclusion regarding the occurrence of abuse or neglect. The dispositions that staff must use are: Reason to Believe, Ruled Out, Unable to Complete, or Unable to Determine.

**Intake Priorities** - To establish time frames for investigations, CPS assigns each report of child abuse and neglect to one of two priority groups. The level of identified risk and child safety concerns determine the priority assigned. Initial assessment regarding the immediacy of risk and severity of harm to the child are based on information provided by the reporter and other available information about the alleged perpetrators, child vulnerability, prior history, specific nature of the harm, and whether the harm has occurred.

The two priority groups are as follows:

**Priority I** - Intake reports that concern children who appear to face an immediate risk of abuse or neglect that could result in death or serious harm. CPS must initiate the investigation within 24 hours of receiving a

Priority I report.

**Priority II** - All reports of abuse or neglect that are not assigned as Priority I are assigned as Priority II. These are reports that contain allegations of abuse or neglect in which there does not appear to be an immediate threat of serious harm or death. CPS must initiate the investigation within 72 hours of receiving a Priority II report. The initial priority may be changed if information gathered during the intake stage indicates that the abuse or neglect is either more or less serious than originally reported.

**Service Level** - DFPS 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 four Service Levels:

**a) What is the description of the Basic Service Level?**

The Basic Service Level consists of a supportive setting, preferably in a family, that is designed to maintain or improve the child's functioning, including:

- (1) routine guidance and supervision to ensure the child's safety and sense of security;
- (2) affection, reassurance, and involvement in activities appropriate to the child's age and development to promote the child's well-being;
- (3) contact, in a manner that is deemed in the best interest of the child, with family members and other persons significant to the child to maintain a sense of identity and culture; and
- (4) access to therapeutic, habilitative, and medical intervention and guidance from professionals or paraprofessionals, on an as-needed basis, to help the child maintain functioning appropriate to the child's age and development.

**b) What is the description of the Moderate Service Level?**

(a) The Moderate Service Level consists of a structured supportive setting, preferably in a family, in which most activities are designed to improve the child's functioning including:

- (1) more than routine guidance and supervision to ensure the child's safety and sense of security;
- (2) affection, reassurance, and involvement in structured activities appropriate to the child's age and development to promote the child's well-being;
- (3) contact, in a manner that is deemed in the best interest of the child, with family members and other persons significant to the child to maintain a sense of identity and culture; and
- (4) access to therapeutic, habilitative, and medical intervention and guidance from professionals or paraprofessionals to help the child attain or maintain functioning appropriate to the child's age and development.

(b) In addition to the description in subsection (a) of this section, a child with primary medical or habilitative needs may require intermittent interventions from a skilled caregiver who has demonstrated competence.

**c) What is the description of the Specialized Service Level?**

(a) The Specialized Service Level consists of a treatment setting, preferably in a family, in which caregivers have specialized training to provide therapeutic, habilitative, and medical support and interventions including -

- (1) 24-hour supervision to ensure the child's safety and sense of security, which includes close monitoring and increased limit setting;
- (2) affection, reassurance, and involvement in therapeutic activities appropriate to the child's age and development to promote the child's well-being;
- (3) contact, in a manner that is deemed in the best interest of the child, with family members and other persons significant to the child to maintain a sense of identity and culture; and
- (4) therapeutic, habilitative, and medical intervention and guidance that is regularly scheduled and professionally designed and supervised to help the child attain functioning appropriate to the child's age and development.

- (b) In addition to the description in subsection (a) of this section, a child with primary medical or habilitative needs may require regular interventions from a caregiver who has demonstrated competence.

**d) What is the description of the Intense Service Level?**

- (a) The Intense Service Level consists of a high degree of structure, preferably in a family, to limit the child's access to environments as necessary to protect the child. The caregivers have specialized training to provide intense therapeutic and habilitative supports and interventions with limited outside access, including -
- (1) 24-hour supervision to ensure the child's safety and sense of security, which includes frequent one-to-one monitoring with the ability to provide immediate on-site response.
  - (2) affection, reassurance, and involvement in therapeutic activities appropriate to the child's age and development to promote the child's well-being;
  - (3) contact, in a manner that is deemed in the best interest of the child, with family members and other persons significant to the child, to maintain a sense of identity and culture;
  - (4) therapeutic, habilitative, and medical intervention and guidance that is frequently scheduled and professionally designed and supervised to help the child attain functioning more appropriate to the child's age and development; and
  - (5) consistent and frequent attention, direction, and assistance to help the child attain stabilization and connect appropriately with the child's environment.
- (b) In addition to the description in subsection (a) of this section, a child with developmental delays or mental retardation needs professionally directed, designed and monitored interventions to enhance mobility, communication, sensory, motor, and cognitive development, and self-help skills.
- (c) In addition to the description in subsection (a) of this section, a child with primary medical or habilitative needs requires frequent and consistent interventions. The child may be dependent on people or technology for accommodation and require interventions designed, monitored, or approved by an appropriately constituted interdisciplinary team.

**Permanency Goal Definitions -** Permanency goals for children must be one of the following:

- 1) **Family Preservation** - identifies a child's own home as the safe and permanent living situation toward which CPS services are directed, without removing the child from the home.
- 2) **Family Reunification** - identifies that the child was removed from his or her home and that with CPS assistance, the family appears able and willing to reduce the risk of abuse or neglect enough for the child to return home and live there safely for the foreseeable future.
- 3) **Alternative Family Placement with Long Term Commitment** - indicates that the child has been removed from the home, family reunification is not appropriate, and a family has been found or is being sought as follows:
  - (A) adoption and care by a relative;
  - (B) permanent conservatorship and care by a relative;
  - (C) adoption and care by an unrelated family;
  - (D) permanent conservatorship and care by an unrelated family;
  - (E) care by a foster family with DFPS having permanent conservatorship;
  - (F) care in some other family arrangement with DFPS having permanent conservatorship;
- 4) **Another Planned Living Arrangement with Support of a Family** - indicates that the youth has been removed from the home, family reunification or another higher ranking permanency goal is not appropriate, and CPS will provide services directed toward:
  - (A) preparation for independent living, for youth who are at least 16 years old and have no developmental disability; or

- (B) preparation for adult living with community assistance in the most integrated setting, for youth who are at least 18 years old and who have a developmental disability.

**Recidivism** - Refers to the re-occurrence of child abuse or neglect involving confirmed victims where the second incidence occurs within six months 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** - CPS workers investigate allegations of abuse and neglect and make assessments regarding risk. The terms “at risk” and “not at risk” are conclusions regarding whether there is a reasonable likelihood that the child will be abused or neglected in the foreseeable future. The decision to provide services is based on the assessment of risk, not on the disposition of the allegations. Risk assessment is a casework process in which the worker explores individual and family functioning associated with the recurrence of abuse or neglect, and individual and family strengths and resources associated with protective capacities. There are four possible risk findings:

- **No Significant Risk Factors** - No significant risk factors were identified in the family’s current situation or history.
- **Risk Factors Controlled** - Risk factors were identified; however, family strengths and available resources are sufficient to provide for the safety of the child without CPS assistance.
- **Risk Indicated** - Risk factors were identified, and there are not sufficient family strengths and available resources to manage the risk conditions without CPS assistance.
- **Risk Assessment Not Applicable**- This finding is documented if the investigation involved school personnel or an only child who died, or the investigation was administratively closed or given a disposition of “unable to complete”.

By using a risk-based system for provision of services, CPS is able to identify children in need of protection and direct its resources to those most in need.

## Child Care Licensing Program

### Daycare

- Licensed Child-Care Centers
- Licensed Child-Care Homes
- Registered Child-Care Homes
- Listed Family Homes

### 24-Hour Residential Care

- Foster Family Homes
- Foster Group Homes
- General Residential
- Child-Placing Agencies
- Maternity homes

### Definitions:

**Abuse** - An intentional, knowing, or reckless act or omission by someone working under the auspices of an operation that causes or may cause emotional harm or physical injury to, or the death of, a child served by the operation. See the Texas Family Code, §261.401(a)(1) and DFPS Rules, 40 TAC, §§745.8553 745.8557.

**Administrative Review** - An informal review meant to give certain individuals or operations the opportunity to dispute a specific Licensing decision or action.

**Adverse Actions** - A type of remedial action that Licensing may impose to address a deficiency. This action may require closure of an operation or the addition of permanent restrictions or conditions to a permit. The four types of adverse actions are - denial, adverse amendment, suspension, and revocation.

**Application Process** - The application process for licensed and registered operations involves a pre-application interview, inquiry meeting, or orientation; the submission of the application materials; public notice and hearing requirements for residential child-care operations; reviewing the application for compliance with minimum standards, rules and statutes; accepting the application as completed or returning it if incomplete; and the decision to issue or deny. Listed homes are not required to attend a pre-application interview or orientation.

**Background Checks** - Searches of different databases that are conducted on an individual. There are three types of background checks: criminal history checks conducted by the Department of Public Safety for crimes committed in the State of Texas, criminal history checks conducted by the FBI for crimes committed anywhere in the U.S., and central registry checks conducted by DFPS. The central registry is a database of people who have been found by Child Protective Services, Adult Protective Services, or Licensing to have abused or neglected a child or vulnerable adult. Background checks are conducted on child care providers, foster and adoptive parents (and their household members), and child-placing staff. Background checks are also conducted on employees at licensed operations as well as at registered and listed family homes. Rules are in place to dictate which types of background checks are required of each person. For more information about these requirements, see 40 Texas Administrative Code §§.745.615.

**Before or After-school Program** - A type of licensed center that provides care before or after or before and after the customary school day and during school holidays, for at least two hours a day, three days a week, to children who attend pre-kindergarten through grade six.

**Branch Office** - Office space used by a child-placing agency (CPA) separate from the main office or Texas headquarters for the CPA. A branch office is at a location other than the location for which the CPA is licensed/certified. A branch office operates under the license issued to the CPA and performs many of the same functions as the main office of the CPA.

**Capacity** - The maximum number of children that a permit holder may care for at one time.

**Care Types** - The type of care offered by a licensed center or general residential operation based on the months, days, and hours of operation, the ages of the children in care, or the services provided. Care types for Licensed Centers include Child Care Program, Before or After School Program, School Age Program, and Temporary Shelter Program. Care types for General Residential Operations include Child Care Services Only, Emergency Care Services Only, Multiple Services, or Residential Treatment Center. This information reflects the law that was in effect through August 31, 2011.

**Caregiver** - A person whose duties include the supervision, guidance, and protection of a child or children.

**Central Registry** - A subset of data within the IMPACT system of people who have been found by CPS, APS, or CCL to have abused or neglected a child or vulnerable adult.

**Child-Care Administrator** - A person who supervises and exercises direct control over a general residential child-care operation, and who is responsible for the operation's program and personnel, regardless of whether he or she has an ownership interest in the operation or shares duties with anyone.

**Child-Care Facility** - An establishment subject to regulation by Licensing that provides assessment, care, training, education, custody, treatment, or supervision for a child who is not related by blood, marriage, or adoption to the owner or operator of the facility, for all or part of the 24-hour day, whether or not the establishment operates for profit or charges for its services. A child-care facility includes the people, administration, governing body, activities on or off the premises, operations, buildings, grounds, equipment, furnishings, and materials.

**Child Care Licensing (CCL)** - The division within DFPS that regulates child day care operations, residential child-care operations, other child-care activities, and the licensing of child-care administrators and child-placing agency administrators.

**Child Care Licensing Law** - Chapter 42 of the Human Resources Code.

**Child-Placing Agency (CPA)** - A person, including an organization, other than the parents of a child who plans for the placement of or places a child in a child-care operation, foster home or adoptive home. A CPA is a licensed residential child-care operation that verifies and regulates its own foster homes and approves adoptive homes subject to DFPS minimum standard rules.

**Child-Placing Agency Administrator** - A person who supervises and exercises direct control over a child-placing agency and who is responsible for the operation's program and personnel, regardless of whether he or she has an ownership interest in the operation or shares duties with anyone.

**CLASS** - Child Care Licensing Automation Support System. A case-management computer application used by DFPS licensing staff and is the system of record for many licensing activities.

**Complete Application** - A packet of materials submitted by an applicant that contains all of the documentation required to apply for a permit.

**Corrective Action** - A type of remedial action that Licensing may impose to help an operation improve compliance without requiring it to close. The two types of corrective actions include evaluation and probation. Corrective actions are not imposed on listed family homes.

**CPA Adoptive Home** - A person or persons approved by a CPA to adopt a child or children.

**CPA Foster Family Home** - A home verified by a child-placing agency to provide care for six or fewer children up to the age of 18 years. The Child-Placing Agency issues verifications, inspects, and may investigate its homes to ensure compliance with minimum standards. Also known as an agency foster family home.

**CPA Foster Group Home** - A home verified by a child-placing agency to provide care for seven to 12 children up to the age of 18 years. The child-placing agency issues verifications, inspects, and may investigate its homes to ensure compliance with minimum standards. Also known as an agency foster group home.

**Deficiency** - Any failure to comply with a minimum standard rule, law, specific terms associated with a permit, or

condition of a remedial action. Also referred to as a violation.

**Director** - An adult designated to have daily, on-site responsibility for a licensed day care facility, including maintaining compliance with the minimum standards and licensing laws.

**e-Application** - An electronic version of the application for a permit to operate a child-care operation.

**Enforcement Team Conferences** - A conference held to thoroughly review the investigations and inspections of a child-placing agency and all of its agency homes to monitor and enforce compliance by the child-placing agency with rules and standards. Enforcement Team Conferences also began for residential treatment centers starting in fiscal year 2011.

**Evaluation** - A type of corrective action in which a corrective action plan is imposed that may include conditions beyond the minimum standard rules and the basic permit requirements. During the evaluation period, inspections are conducted more frequently to assist the operation in meeting conditions, improving compliance, and assessing risk to children in care.

**Exempt from Regulation** - Certain facilities or programs can operate legally without receiving a permit from Licensing. A facility or program exempt from regulation is not required to comply with Licensing's statutes and rules.

**Follow-Up Inspection** - Inspections that include evaluating individual standards, conditions, or restrictions, rather than evaluating an entire subchapter of minimum standards

**Foster Family Home (Independent)** - A licensed operation that provides residential child-care for six or fewer children up to the age of 18 years. An independent foster family home is not affiliated with a CPA but is monitored and regulated directly by the DFPS Licensing Division. See CPA foster family home for a home verified (monitored and regulated) by a child-placing agency (CPA).

**Foster Group Home (Independent)** - A licensed operation that provides residential care for seven to 12 children up to the age of 18 years. An independent foster group home is not affiliated with a CPA but is monitored and regulated directly by the DFPS Licensing Division. See CPA foster group home for a home verified (monitored and regulated) by a child-placing agency (CPA).

**General Residential Operation** - A residential child-care operation that provides child care for 13 or more children under age 18 and may provide various treatment services or programmatic services. Residential Treatment Centers, a subset of general residential operations, provide care exclusively for children requiring treatment services for emotional disorders.

**Illegal Operation** - An operation that provides child care that is subject to regulation, but does not have a permit.

**IMPACT** - Information Management Protecting Adults and Children in Texas, a case-management computer application used by DFPS staff. IMPACT is the statewide automated child welfare information system (SACWIS) for Texas.

**Inspection** - The physical presence of licensing staff at an operation to determine an operation's compliance with the child-care licensing law and DFPS rules. Inspection Types: Monitoring, Investigation, Follow-up, Other, and Sampling. See specific definitions in this section.

**Investigation** - An action conducted by licensing staff when a report is received alleging a violation of the minimum standards/law or abuse/neglect. An investigation is conducted to determine the validity of the allegations and to ensure the protection of children in care.

**Investigation Inspection** - Inspections that include the investigation of reports alleging abuse, neglect, violation of the law, violations of administrative rule, minimum standard rules, or a combination of these

**Issuance** - The Licensing division issues a permit to an operation after it determines that an operation or home has met minimum standards and is approved to operate as a child-care operation.

**Licensed Child-Care Center** - An operation providing care for seven or more children under age 14 for less than 24

hours per day at a location other than the permit holder's home. A licensed center may also be referred to as a day-care center and includes the care types Child Care Program, Before or After-School Program, School-Age Program, and Temporary Shelter Program.

**Licensed Child-Care Home** - A child day-care operation that is licensed. The primary caregiver provides care in the caregiver's own residence for children from birth through age 13. The total number of children in care varies with the ages of the children, but the total number of children in care at any given time, including the children related to the caregiver, must not exceed 12.

**Listed Family Home** - Listed Family Homes provide child care on a regular basis (at least 4 hours per day, 3 or more days a week, for 3 or more consecutive weeks) for one to three unrelated children. The total number of children in care at any given time, including the children related to the caregiver, must not exceed 12. Care is provided in the caregiver's home. Providers are required to go through an application process that includes a criminal background check and issuance of a certificate. Listed family home providers must be at least 18 years old. However, there are no orientation classes or training requirements for listed family homes. Until 9/1/2011, listed family homes currently were not routinely inspected; however, reports alleging more than 3 children are in care or reports alleging abuse or neglect of children in care were investigated by CCL.

**Maternity Home** - A licensed operation that provides care for four or more minor and/or adult women and their children during pregnancy and/or during the six-week postpartum period.

**Minimum Standard Rules** - The rules from Title 40 of the Texas Administrative Code which serve as the minimum requirements that a permit holder must meet to maintain their permit and which are enforced by DFPS to protect the health, safety, and well-being of children. These include all rules in 40 TAC Chapters 727, 743, 744, 746, 747, 748, 749, and 750.

**Monetary Actions** - A type of remedial action. These actions are fines or penalties that Licensing may impose as provided by the Human Resources Code, §42.075 and §42.078. There are two types of monetary actions - administrative penalties and civil penalties.

**Monitoring Frequency** - The interval between routine inspections at a child-care operation. The Licensing division determines how frequently to inspect an operation based on risk assessment factors focused on the health, safety, and well-being of children in care.

**Monitoring Inspection** - Inspections that include evaluation of at least one entire subchapter of the applicable minimum standards and may include evaluation of additional individual laws, administrative rules, or minimum standard rules, or any conditions or restrictions.

**Neglect** - Neglect is an act or omission that constitutes a breach of a duty by a person working under the auspices of an operation that causes or may cause substantial emotional harm or substantial physical injury to a child. See the Texas Family Code §261.401, DFPS Rules, 40 TAC, §§745.8553, 745.8555, and 745.8559.

**Operation** - A person or entity offering a program that may be subject to regulation by Child Care Licensing. An operation includes the building and grounds where the program is offered, any person involved in providing the program, and any equipment used in providing the program. The term "operation" is used to refer to any entity providing child care and is usually accompanied by a qualifier to describe the type of care being referenced (for example, "illegal operation" or "daycare operation").

**Other Inspection** - Inspections conducted for purposes other than determining compliance with pre-identified minimum standards.

**Permit** - A license, certificate, registration, listing or any other written authorization granted by Licensing to operate a child-care facility, child-placing agency, general residential operation, listed family home, registered home or maternity home. This also includes a Licensed Administrator's permit.

**Probation** - A type of corrective action in which Licensing imposes a corrective action plan that is more restrictive and intense than an evaluation corrective action plan. It may include conditions beyond the requirements of the

minimum standards and the basic permit requirements. During the probationary period, inspections are conducted more frequently to assist the operation in meeting conditions, improving compliance, and assessing risk to children in care.

**Provider** - A person or entity associated with an operation. This term generally implies a degree of responsibility for the operation, and refers to applicants, operations that are subject to regulation, or permit holders.

**Registered Child-Care Home** - Registered Child Care Homes provide care in the caregiver's home for up to 6 children under age 14, and may also take in six additional school-aged children before and/or after the customary school day. The number of children allowed in a home is determined by the ages of the children. No more than 12 children can be in care at any time, including children of the caregiver. The application process requires that a provider complete an orientation class and receive clearances on background checks. A registration certificate is issued after CCL staff completes an on-site inspection to ensure the provider is meeting minimum standards. Registered homes are inspected by CCL at least once every 2 years or if a report is received related to child abuse/neglect or standards violations.

**Remedial Actions** - An action Licensing may impose if an operation is deficient in a minimum standard, rule, law, a specific term associated with the operation's permit, or a condition of evaluation, probation, or suspension. There are four types of remedial actions: corrective, adverse, judicial, and monetary.

**Report** - An expression of dissatisfaction or concern about an operation, made known to DFPS staff, that alleges a possible violation of minimum standards, rules, law, or abuse/neglect, and that involves potential risk to a child or children in care.

**Reporter** - The person who reports to DFPS an expression of dissatisfaction or concern that alleges a possible violation of minimum standards, rules, law, or abuse/neglect, and that involves potential risk to a child or children in care.

**Residential Child-Care - (24-Hour Residential Child-Care)** The care, custody, supervision, assessment, training, education, or treatment of an unrelated child or children up to the age of 18 years for 24 hours a day, that occurs in a place other than the child's own home. See DFPS Rules, 40 TAC, §745.35.

**Residential Treatment Center (RTC)** - A general residential operation that exclusively provides care and treatment services for emotional disorders for 13 or more children up to the age of 18 years.

**Sampling Inspection** - Licensing inspects a percentage of agency foster homes annually to determine compliance with applicable law, rules, and minimum standards, and to ensure that the child-placing agency is appropriately managing the foster home. The homes inspected are selected through a random sampling process, and the inspections are called "sampling" inspections.

**School-Age Program** - A licensed center that provides supervision along with recreation or skills instruction or training, and may provide transportation before or after the customary school day, for at least two hours a day, three days a week, to attending pre-kindergarten through grade six. A school-age program may also operate during school holidays, the summer period, or any other time when school is not in session.

**Self-Report** - An account from an operation of a serious incident that occurred at the operation. All regulated operations are required to make reports to Licensing about certain types of incidents that could pose a risk to children in care.

**Small Employer Based Child-Care** - A child-care facility that is operated by a small employer to provide care to not more than 12 children of the employer's employees and is located on the employer's premises. A "small employer" means a corporation, partnership, sole proprietorship, or other legal entity that employs fewer than 100 full-time employees.

**SOAH** - The State Office of Administrative Hearings is the state agency that conducts administrative hearings to satisfy a child-care provider's rights to due process regarding either a substantiated finding of abuse/neglect or a remedial action.

**Suspension** - A temporary closure of an operation that may be voluntary or involuntary. Voluntary suspensions are

usually at the request of an operation, and licensing staff must inspect the operation prior to reopening to ensure compliance with standards. Involuntary, or emergency, suspension is imposed by Licensing for a maximum of 30 days based on serious and immediate risk of harm to children.

**Team Inspections** - Inspections that are conducted by at least two licensing staff. At least one of the unannounced annual inspections of a 24-hour residential child-care facility must be conducted by a team of at least two CCL monitoring staff. Other operation types may also have team inspections. Whenever possible, members of the inspection team are from different CCL units, to facilitate objectivity, and consistency in regulation.

**Technical Assistance** - Training, information, and consultation that licensing staff offer to a permit holder, applicant, and operation employees to help them comply with the minimum standard rules and applicable law.

**Temporary Shelter Care Providing Child Care**- A child-care program at a temporary shelter, such as a family violence or homeless shelter, providing care for seven or more children under age 14 while the resident parent is away from the shelter. The child care program operates for at least four hours a day three days a week.