

Nov
2019

Training Bulletin

For EMS Agencies



TEXAS
Department of Family
and Protective Services

Adult Protective Services

Protecting Vulnerable Adults is Everyone's Business

Adult Protective Services (**APS**) responds to reports from individuals, concerned citizens, social service or health providers, financial institutions, and law enforcement representatives regarding an elderly or vulnerable adult who may be in a situation of abuse, neglect and/or financial exploitation. It is the mission of the Texas Adult Protective Services program is to protect individuals **65 years or older** and **adults (18-64) with a substantial impairment** by investigating and providing or arranging for services necessary to alleviate or prevent further maltreatment.

Substantial impairment is defined as a disability that grossly & chronically diminishes the physical or mental ability causing a long lasting and considerable inability to live independently or provide self-care. Below, you'll find an explanation of Substantial Impairment based on definitions found in the Texas Family Code.

ADULT PROTECTIVE SERVICES INVESTIGATES 3 TYPES OF INCIDENTS – ABUSE, NEGLECT & EXPLOITATION:

ABUSE – the negligent or willful infliction of injury, unreasonable confinement, intimidation or cruel punishment resulting in physical, emotional harm or pain by the person's caretaker, family member or other individual with an on-going relationship.

Physical Abuse is unreasonable Confinement: An act that results in a forced isolation from the people one would normally associate with, including friends, family, neighbors, and professionals. It is also the act of inappropriate restriction of movement, or the use of any inappropriate restraint. **Physical Injury:** Physical pain, harm, illness, or any impairment of physical condition. **Emotional Harm:** A highly unpleasant mental reaction with obvious signs of distress, such as anguish, grief, fright, humiliation, or fury. **Intimidation:** Behavior by actions or words creating fear of physical injury, death, or abandonment. **Corporal Punishment:** Causing physical pain by hitting, paddling, spanking, slapping, or any other physical force used as a means of discipline. **Inappropriate or Excessive Force:** When more force than necessary is used, it is considered inappropriate or excessive.

Emotional or Verbal Abuse is any act by a *paid caregiver* of cursing, vilifying, humiliating, degrading, or threatening that results in emotional harm. Any act by a *non-paid caregiver* of verbal or other communication to threaten violence that makes a reasonable person fearful of physical injury.

Sexual Abuse is any non-consensual sexual activity. This may include, but is not limited to, any activity that would be a sexually-oriented offense as found in the Texas Penal Code Chapter 21 (indecent exposure), Chapter 22 (assaultive offenses), or Chapter 43 (public indecency) in which the perpetrator has an ongoing relationship with the victim.

NEGLECT – 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 such goods or services.

Self-Neglect: If a person is not able to take care of their physical needs like getting food, shelter, or avoiding emotional harm or physical injury, if someone fails to provide for themselves the protection, food, shelter, or care necessary to avoid emotional harm or physical injury, he or she could be causing physical neglect to themselves.

Neglect by Caregiver: If the act of a caregiver caused emotional harm, physical injury, or death.

Medical Neglect is the lack of medical care or medication to prevent harm or pain. It is considered medical neglect, if the adult is not competent to make the choice for himself or herself to follow through with the needed medical treatment, or if his or her caregiver does not follow through with the needed medical treatment.

Mental Health Neglect is untreated or under-treated mental illness that results in other allegations of abuse, neglect or exploitation. Adult Protective Services **does not** investigate allegations of mental health when no other allegations of abuse, neglect or exploitation are present.

EXPLOITATION - The illegal or improper act or process of a caretaker, family member, or other individual who has an ongoing relationship that involves using, or attempting to use, the resources, including the person's social security number or other identifying information, for monetary or personal benefit, profit or gain without informed consent.

Financial exploitation can include situations such as inappropriate or excessive ATM withdrawals; signing checks made out by someone else; valuable items missing from the home without explanation; discrepancies between resources and living conditions; inappropriate expenses or services; and excessive gifts to other.

ROLES NOT PERFORMED BY APS:

- APS cannot remove clients from their homes against their will unless elements for an Emergency Order of Protective Services is warranted.
- APS cannot place clients in Skilled Nursing Homes or other facilities
- APS cannot provide direct mental health services or force individuals to resume a medication routine.
- APS does not have foster type facilities or other emergency placements.
- APS does not investigate scams directly though we may investigate associated issues of abuse, neglect or exploitation.
- APS does not take the role of Guardianship, but we can make appropriate referrals for such action.
- APS cannot directly or indirectly order a client to change their lifestyle even if it causes abuse, neglect or exploitation.

WHAT HAPPENS IF AN ALLEGED VICTIM DOES NOT WANT TO REPORT THE ABUSE?

Adult victims of alleged abuse, neglect and/or financial exploitation, unlike in Child Protective Service, have a right to decline to participate in any investigation or service planning even if those services may help resolve a situation of maltreatment. As is common in domestic violence cases, clients are often reluctant to report abuse; denying allegations, recanting previous statements, and making it difficult to participate or cooperate with Adult Protective Services. There are many reasons why one might not want to confirm abuse: fear of retaliation, embarrassment/shame, unwillingness to recognize what's happening, protection of the perpetrator who is often a loved one or family member, belief abuse is deserved, not wanting the government involved in family matters, or fear of losing independence or institutionalization if abuse is discovered. Be aware that this reluctance which can create the inability to prosecute any crimes that are discovered. In such situations, make every attempt to get victims services involved to assist and guide your inquiry.

TEXAS HUMAN RESOURCES CODE CHAPTER 48 AND TEXAS PENAL CODE:

APS makes reports to law enforcement either orally, fax, or hand-delivered when the case investigator suspects abuse, neglect, or exploitation constitutes a crime including:

Assaultive offenses resulting in bodily injury - Texas Penal Code 22.01, 22.02, 22.04 equals APS' definition as **Physical Abuse**.

Sexual abuse or aggravated sexual assault - Texas Penal Code 21.08, 22.011, 22.021 equals APS' definition as **Sexual Abuse**.

Injury to an elderly or disabled person resulting in serious bodily injury, serious mental deficiency, or impairment - Texas Penal Code 22.04 equals APS' definition as **Neglect**.

Threats - Texas Penal Code 22.07 equals APS' definition as **Verbal Abuse**.

Theft or Fraud - Texas Penal Code Chapter 31 & 32 equals APS' definition as **Exploitation**.

HOW DO YOU REPORT A SUSPECTED INCIDENT?

There are several ways to report suspected abuse, neglect and exploitation of an elderly or vulnerable adult.

Public: (800) 252-5400 **(800) 877-5300 - Law Enforcement Only**

FAX: (512) 339-5900 – In State (800) 647-7410 – Out of State

Internet: www.TxAbuseHotline.org



Dirk Sheridan, Community Engagement
State Office - 701 W. 51st Street, Austin, Texas 78751
512.438.3213 Office (512) 339-5870 FAX dirk.sheridan@dfps.state.tx.us