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## Texas Agency for Elderly Under Fire

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EL PASO, April 17 - Francisco Chapa was not home - that is, he was not in the rotted-out 1960's Rambler station wagon he sleeps in when he is not in his adobe ruin next door or walking to Ciudad Juárez, Mexico, 30 miles away, or abducted by what he insists are U.F.O.'s that take him to outer planets.

Despairing family members, a sheriff's deputy and Mr. Chapa's court-appointed temporary guardian clambered through the junkyard debris in the outlying town of Fabens on Friday looking for him, but the 86-year-old Mr. Chapa, a mostly deaf, decorated World War II veteran with mental problems, was nowhere to be found.

Neither was Adult Protective Services, the Texas agency that is supposed to spring to the aid of troubled elderly people, intervening in cases of abuse, neglect and exploitation. But as documented in recent court cases, the agency has repeatedly ignored the little-known sufferings and some ghastly deaths of poor and disturbed older people in rural West Texas.

Now, after an El Paso County probate judge, Max Higgs, saying he was incensed by years of mismanagement, made a forceful presentation of some of the worst cases to Gov. Rick Perry and other state officials, investigators are swarming over El Paso to remedy failures in the supervision of the elderly.

"The cases documented in Judge Higgs's report are disturbing, particularly because they involve the neglect and mistreatment of some of our most vulnerable Texans, the elderly and those with disabilities," Mr. Perry said Wednesday.

He directed the health and human services commissioner, Albert Hawkins, to review cases statewide and reorganize

the adult care agency.

Mr. Hawkins traveled to El Paso for briefings on Thursday, along with a deputy commissioner, Gregg Phillips, and about 20 investigators. "We're after systematic change," Mr. Phillips said.

Mr. Phillips declined to comment specifically on the judge's criticisms. He called the internal investigation an "in-depth project" and said, "We're very pleased with the progress."

In recent testimony in Judge Higgs's court, Adult Protective Services employees said they were following orders to work with clients rather than initiate costly litigation to remove them from their homes. But some acknowledged that their training and experience were limited.

[Officials of Adult Protective Services, a subdivision of Family and Protective Services, which is in the Health and Human Services Department, would not comment on Monday. Carolyn Bivens, assistant commissioner, was said by her office to be at meetings. Tommy Reed, a northwest Texas district supervisor, said by telephone that he was going to meetings and could not speak.

[Geoff Wool, a spokesman for Family and Protective Services, said: "Our policy is to do what is in the best interest of the client, while still respecting their right to self-determination. In certain situations, we may come across a client who is living in deplorable conditions, but if the client is rational and has mental capability of making decisions and that client refuses our services, we respect that person's right, even though we may have issues with the way the person is living."]

In one case recently brought to light, a 67-year-old electrical engineer whose apartment was so full of pipe tobacco soot and roaches that the dead insects made a paste on the floor, could not reach his stove because trash was piled five feet high. Therefore, a caseworker reasoned, there was no fire hazard.

In another instance, caseworkers long failed to gain access to the home of an elderly woman who believed she was

working for the F.B.I. to find a cure for multiple sclerosis by experimenting on cats in her home.

An 87-year-old woman whose home was filled with more than 18 tons of debris slept in her Honda Civic with sick cats for six weeks, sometimes in 26-degree cold.

Judge Higgs, 60, who once worked for a predecessor agency of Adult Protective Services, sent several of these case files, backed up by voluminous documentation, to Austin, the capital, two weeks ago. "I was really getting frustrated," he said in one of many interviews he readily granted here in recent days.

Judge Higgs, who was appointed to the probate bench in 1991 and later won three elections as a Democrat, the dominant party in El Paso, said he had been complaining about the state's supervision of the elderly for at least 10 years, without results. Texas law requires anyone knowing of ill-treated elderly to report the cases to Adult Protective Services, but the judge said, "People would make reports and nothing happened - there was a downward spiral."

He said problems worsened after last September when the agency was reorganized and the El Paso supervisors moved hundreds of miles away to Lubbock and Midland. The agency's budget was also cut, he said, although reporting confusion made it hard to say how much the caseload of each caseworker had risen.

The judge was critical of five questions caseworkers use to determine whether people can manage their own affairs. They are asked what they would do if their home caught on fire, if they did not get their monthly checks, if a caretaker did not show up to cook or clean, if they had a medical emergency and could not reach a doctor, and how they would handle their worst problem.

"There are probably some corpses who could have passed the five-question test," Judge Higgs said.

Yet Judge Higgs warned against excessive intervention and said he had once rejected custody for a woman with advanced breast cancer. "The bones were protruding through her flesh," he said. But she refused treatment and was fully competent, he said, "so I sent her home."

"If you don't occasionally have a death, you've probably made the system too restrictive," he said.

Among those for whom he has been seeking guardianships is Helen Matan Lee, the woman who was living in her Honda in the case file sent to Governor Perry. She was living in the filthy car, the report said, because her house was overflowing with trash and the refrigerator "was roach-infested and had a black slime oozing out of the doors." A psychologist found her not competent to care for herself, but agency employees said they could not intervene because Mrs. Lee "refused services" and was competent.

Last Feb. 15, six weeks after Adult Protective Services was notified about her case, Mrs. Lee was found in her backyard with a broken hip and a body temperature of 85 degrees. She is now recovering in a local hospital.

A former supervisor, Mark Schobert, testified last month that "we were building rapport" with Mrs. Lee. The outcome, he said, "does not necessarily mean we worked the case incorrectly." After testifying again Friday, he said he had recently been forced out of the agency.

Adult Protective Services did ask Judge Higgs last week to order an emergency removal of a 77-year-old woman, Doris McKeon, who was living in squalor with five or six dogs. Terry W. Hammond, a lawyer often appointed as a guardian for abused or neglected adults, said that Ms. McKeon had been visited five times earlier by caseworkers going back to 1994, but that the agency had only now sought her removal.

On Friday, relatives of Mr. Chapa, the World War II veteran, appeared in Judge Higgs's court to beg for help for him after they said Adult Protective Services had ignored their pleas going back a year.

The judge dispatched Mr. Hammond and Jose Sariñana, a court investigator, to look for him in Fabens. Guided by the relatives, the investigators found Mr. Chapa's refuge, a Rambler buried in a junkyard next to the remains of the house where he had lived with his mother since returning a war hero from Europe until she died 30 years ago. He was not there, having fled, Roy Slape, his nephew said, from a

derelict who was extorting money from him.

The house was a shambles. A makeshift stovepipe with burn marks showed he was cooking inside over open flames, and a burned water tank suggested he was lighting fires to heat water to wash. There was no visible toilet.

Mr. Hammond flagged down a passing sheriff's deputy, William Kirtley, who grimly surveyed the property. "We thought it was abandoned," he said.

Mr. Hammond then tried to summon Adult Protective Services. It was 4:30 Friday afternoon. No one was around. He called the judge, who said he would make calls of his own. Hours later a caseworker showed up at Mr. Chapa's car, found him there, and persuaded him to seek shelter with relatives