

Volume II

State APS Policy Profiles and

Appendix B: Maltreatment Definitions

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State APS Program Profiles Description

Volume II of this report presents individual policy profiles of state APS programs. The information is presented in a descriptive format. As explained in the methodology section in Volume I, each profile is based on coding of extant state materials and agency review of draft and summary materials.

The profiles are based on a series of research questions grouped together according to the APS Logic Model framework. That is, each section of the profile is based on a major section of the APS Logic Model. The framework starts with general context and administrative information and then follows the basic case flow of most (but not necessarily all) APS investigations—intake, investigation, and post-investigation services. The framework concludes with questions regarding quality assurance. In general, members of the policy review team have attempted to present the information in plain, non-bureaucratic, descriptive language, with use of quotes in italics for material that is difficult or unnecessary to summarize.

The description in each section responds directly to the research questions when extant materials made this possible. In some cases, a more general description addresses the overall content of the section but not the research questions directly. The descriptions for each section note when there is no material available to respond to specific questions.

The framework and research questions are provided below.

As noted in the limitations discussion in Volume I, some profiles include significant gaps due to the nature of extant state policy materials. Absence of information does not necessarily mean that the state program does not have policy, rather one was not located in the review. At times, policy material may only indirectly answer a question and may fit multiple questions; we made best fit or may have repeated some policy information across sections.

As noted, the profiles are written in a descriptive manner; however, they generally use the language of the program and not a standardized language. For example, the program name for its investigative workers (such as a “protective services” or PS worker) is used instead of calling them “investigative workers” across all profiles. Despite writing in a descriptive manner, there will be some inconsistency in style and approach that reflects the differences in source materials and the fact there were multiple authors for the profiles.

Finally, the sources are cited at the beginning of each profile. When available, links are provided to the online location of each extant resource. If the resource was obtained from a non-online source (e.g., documents uploaded with the state’s National Adult Maltreatment Report) or is no longer available online, then the phrase “[not available online]” is used at the end of the citation.

State Profile Outline

Context

Administration

Is the APS program state or county-administered?

Is the APS program administered by an aging or social services agency?

Are APS staff state employees or is operation of the program contracted out at the local level?

Scope

Age Criterion for Elderly

Does APS Investigate providers? If so, what types?

Does APS investigate adults with disability?

Does the APS program have other eligibility requirements – such as vulnerability or disability?

What types of maltreatment, including self-neglect, does the APS program investigate? What is the definition of each type?

Confidentiality

Is APS investigation information confidential (Y/N)? What are the exceptions to the confidentiality?

Guiding Principles

Does the state APS program have a defined set of ethical principles? What are the key principles?

Does the state APS program have policies to ensure that the APS program is held to high standards of integrity? What are the key principles?

Intake

Reporters

Is mandatory reporting required? Who are mandatory reporters?

Does APS protect the identity of reporters

Priorities

Are there priority levels for reports of abuse? If yes, what are the categories and associated requirements?

Investigation

Authority

Does state policy provide authority to conduct various investigatory activities, including:

- access to alleged victims,
- access to information, and
- cooperation with law enforcement?

Can an alleged victim refuse an investigation?

What is state policy regarding involuntary interventions for APS clients such emergency protective orders?

Case Initiation

What is state policy regarding requirements (in addition to timeframes) for case initiation? Who does state policy require be notified in order to initiate a case?

Conducting Investigation

Are professionals and organizations, such as banks and health care providers, required to provide APS staff access to records?

What does state policy require for a systematic client assessment? What are the broad requirements for what is assessed such as formal and informal support systems, social and health needs, and financial status?

What is state policy regarding the timeframe for completing the investigation or other aspects of the investigation?

Dispositions

What is state policy regarding standard of evidence for substantiating an allegation of maltreatment in an APS investigation?

Does APS program communicate the results of APS investigations to:

- reporters;
- alleged victims;
- alleged perpetrators;

- providers;
- collateral contacts; or
- anyone else?

What are the categories and definitions for the dispositions of APS investigations?

What is state policy regarding legal consequences for substantiated perpetrators in APS investigations (e.g., referral to law enforcement, abuse registries or to regulatory agency)?

Post-Investigative Services

Authority

Does APS provide services to alleged victims, confirmed and unconfirmed?

Does APS provide services to family members?

Does APS provide services to perpetrators?

What is state policy regarding whether clients refuse services if they have capacity?

Approach

What is state policy regarding whether the APS program provides services:

- in least restrictive environment;
- with a person-centered approach; and
- with a trauma-informed approach?

Does the state budget include funds for the APS program to spend on purchased services for victims?

What is state policy regarding timeliness of and other criteria for case closure?

Quality Assurance

What is state policy regarding the role of the APS program supervisor in reviewing and approving an investigation or completed case prior to closure?

What is state policy regarding establishment of a case record?

What is state policy regarding quality assurance activities for the APS program?

APS State Profiles

Alabama

Name of Agency	Alabama Department of Human Resources
Name of Program	Adult Protective Services
Data Sources	Alabama Statutes Alabama Elder Abuse Handbook Alabama Department of Human Resources Webpage NAMRS Agency Component Data FFY2020 Report

CONTEXT

ADMINISTRATION

The Alabama Protective Services Act of 1976, found in [Alabama Code Title 38. Public Welfare § 38-9](#), establishes the Adult Protective Services (APS) program. APS is a state-administered program administered by Alabama's Department of Human Resources. The APS program provides consultation and policy interpretation to 67 county offices, providing certain services to county departments and coordinating program development with other divisions and agencies to meet the needs of elderly and disabled individuals.

SCOPE

APS investigates reports of maltreatment for any adult age 18 or older. No distinction is made between an adult over age 18 with a disability or an elderly adult. The only criterion for APS eligibility is that the person is not capable (as demonstrated by behavior) of caring for him or herself, or, due to physical or mental impairment cannot protect himself or herself from abuse and does not have anyone else to protect him or her. The state defines an adult in need of protective services as:

A person 18 years of age or older whose behavior indicates that he or she is mentally incapable of adequately caring for himself or herself and his or her interests without serious consequences to himself or herself or others, or who, because of physical or mental impairment, is unable to protect himself or herself from abuse, neglect, exploitation, sexual abuse, or emotional abuse by others, and who has no guardian, relative, or other appropriate person, able, willing, and

available to assume the kind and degree of protection and supervision required under the circumstances.

APS investigates reports of maltreatment in residential care communities to include foster homes, assisted living facilities, and mental health group homes. In nursing homes, the agency investigates reports of exploitation perpetrated by family as well as reports of abuse, neglect, or exploitation that has been committed by someone other than an employee of a nursing home. If the allegations result from an investigation by social service agencies, or on the direct initiative of law enforcement officials, such reports would be investigated by APS. The department does not investigate reports that occur in the Alabama Department of Corrections or the Alabama Department of Mental Health facilities.

APS investigates the following maltreatment types: physical abuse, sexual abuse, emotional abuse, neglect, self-neglect, and exploitation (non-specific). See appendix B for full definitions.

CONFIDENTIALITY

Maltreatment reports are confidential and cannot be made available to the public. However, information may be made available on application for cause to persons approved by the commissioner of the department or by the court. The reporter is granted immunity from civil or criminal liability.

GUIDING PRINCIPLES

APS operates according to the following goals:

- *To protect adults from various forms of abuse, neglect or exploitation and*
- *To prevent unnecessary institutionalization while assisting adults to live independently within their own communities for as long as possible.*

INTAKE

REPORTERS

Mandatory reporters include all physicians and other practitioners of the healing arts or any caregiver having reasonable cause to believe that any protected person has been subjected to maltreatment. Mandated reporters who fail to make the report are guilty of a misdemeanor and if convicted may be punished by imprisonment for no more than six months or a fine of no more than \$500.00.

PRIORITIES

Depending on the report, designated response time is either immediate (as soon as circumstances allow, not to exceed 12 hours) or within seven calendar days. Each designated

response time is based on the exact date, hours, and minutes from the date and time of day the intake was received.

Reports made by law enforcement officials are transferred to the county department of human resources within 24 hours.

INVESTIGATION

AUTHORITY

An alleged victim may refuse an investigation. However, every reasonable effort shall be made to ensure that no action is taken without the full and informed consent of the person.

If the person is incapable of giving consent or does not consent, the department shall petition the court for an order authorizing the department to arrange for care immediately. If the court determines that there is an emergent need to protect the health or safety of the person, an appropriate order of the court shall be issued authorizing the department to arrange for the placement of such person in an approved foster home, licensed nursing home, or other similar facility immediately. In the event of involuntary protective placement, the department will provide notice (within 10 days), to the person, his or her spouse, and other interested persons of the action of the court. The notice will include the present location of the person and identifies a date and time for a hearing regarding the person's need for protective placement, the appropriateness of the present placement, and arrangements for future care.

Based on the extant materials, no information is available on state policy regarding authority to conduct investigatory activities.

CASE INITIATION

Each adult who is the subject of a maltreatment report must be seen and interviewed with face to face contact and the contact must be documented. This needs to happen either immediately or within seven calendar days of receipt of the report (depending on the designated response time assigned to the report).

To initiate a case, the following individuals must be notified via an oral report, by telephone or otherwise, followed by a written report: county department of human resources; the chief of police of the city or city and county; or the sheriff of the county if the observation is made in an unincorporated territory. State policy does not require reports of a nursing home employee who abuses, neglects, or misappropriates the property of a nursing home resident be made to the department. Such reports require notification to the Department of Public Health.

The county department of human resources or the law enforcement official will conduct an investigation within seven days following an oral report alleging maltreatment.

CONDUCTING INVESTIGATION

When the APS department investigates a report, the purpose is to establish facts that will be useful in determining whether the alleged victim has been abused, neglected, or exploited and is an adult in need of protective services. All adults in need of protection must be seen and interviewed with a face to face contact and the contact documented within 45 days of the contact date. The APS worker uses the information gathered during the investigation to determine the disposition. Each reported allegation and each reported person allegedly responsible must have a disposition when the investigation has been completed.

When the APS department investigates a report, the APS staff has 60 days to complete an investigation as of the report receipt date.

Based on the extant materials, no information is available about professionals or organization providing access to records, or systematic client assessments.

DISPOSITIONS

A disposition is determined based on the preponderance of the evidence. The categories of dispositions are:

Indicated: This disposition is used when preponderance of the substantial evidence (e.g., eyewitness account, medical report, professional evaluation) and the professional judgment of the social worker (based on facts gathered during the course of the initial assessment) indicates that abuse, neglect, or exploitation has occurred and that the adult is physically or mentally impaired or aged.

Not Indicated: This disposition is used when the evidence and the worker's professional judgment does not substantiate that abuse/neglect/exploitation has occurred or that the client is physically or mentally impaired or aged.

Undetermined:

- *Client cannot be located due to lack of identifying information.*
- *Client moves before complete information can be obtained from him/her and the Client's whereabouts are unknown.*
- *The client moves out of county or out of state, and efforts to complete the interview with the client are unsuccessful.*
- *When there is conflicting information which cannot be resolved. Every reasonable effort should be made to resolve conflicting evidence prior to considering a case undetermined. This must be supported by documentation in the case record.*

- *When the client dies after the report has been made but before the investigation has been completed. If there are concerns about the situation, that case should be referred to law enforcement.*

Each allegation and each alleged perpetrator must have a disposition when the investigation has been completed.

Potential legal consequences for substantiated perpetrators include the following:

- *Any person who intentionally abuses or neglects a person in violation of this chapter shall be guilty of a Class B felony if the intentional abuse or neglect causes serious physical injury.*
- *Any person who recklessly abuses or neglects a person in violation of this chapter shall be guilty of a Class C felony if the reckless abuse or neglect causes serious physical injury.*
- *Any person who intentionally abuses or neglects a person in violation of this chapter, shall be guilty of a Class C felony if the intentional abuse or neglect causes physical injury.*
- *Any person who recklessly abuses or neglects a person in violation of this chapter, shall be guilty of a Class A misdemeanor if the reckless abuse or neglect causes physical injury.*
- *Any person who emotionally abuses a person in violation of this chapter shall be guilty of a Class A misdemeanor.*
- *Any person who exploits a person in violation of this chapter shall be guilty of a Class C felony, where the value of the property, assets, or resources or illegal services provided to a protected person by an unlicensed hospital exceeds one hundred dollars (\$100).*
- *Any person who exploits a person in violation of this chapter shall be guilty of a Class A misdemeanor, if the value of the property, assets, or resources or illegal services provided to a protected person by an unlicensed hospital does not exceed one hundred dollars (\$100).*
- *If a violation of this section is also a violation of any other Alabama criminal statute, then a conviction or acquittal under either statute bars prosecution under the remaining statute.*

Based on the extant materials, no information is available regarding APS communication of the results of the APS investigation.

POST-INVESTIGATIVE SERVICES

AUTHORITY

The department provides services only for persons it is equipped to serve and agrees to serve. All protective services should to the extent possible be in agreement with the wishes of the person to be served unless that individual is unable or unwilling to accept services. If the person is unable or willing to accept services, the court may order services.

Based on the extant materials, no information is available on whether APS provides services to family members or perpetrators.

APPROACH

Protective services should be provided, as much as possible, to allow the individual the same rights as other citizens, and at the same time protect the individual from maltreatment. The APS program is designed to provide those services to all persons when in need of them, and to place the least possible restriction on personal liberty and exercise of constitutional rights consistent with due process and protection from abuse, exploitation and neglect.

Based on extant materials, no information is available on state budget funds for the APS program.

QUALITY ASSURANCE

Based on the extant materials no information is provided regarding APS quality assurance policies.

Alaska¹

Name of Agency	Department of Health and Social Services
Name of Program	Protection of Vulnerable Adults
Data Sources	Alaska Statutes: Title 47. Welfare, Social Services and Institutions, Chapter 24 Protection of Vulnerable Adults NAMRS Agency Component Data FFY2016 Report

CONTEXT

ADMINISTRATION

The Alaska Adult Protective Services Program operates under Chapter 47.24 of the Alaska Statutes. It is a state-run program within the Alaska Department of Health and Social Services, Division of Senior and Disability services. Alaska Adult Protective Services helps to prevent or stop harm from occurring to vulnerable adults. Alaska law requires that protective services not interfere with the elderly or disabled adults who can care for themselves. Alaska law defines vulnerable adults as a person 18 years of age or older who, because of incapacity, mental illness, mental deficiency, physical illness or disability, advanced age, chronic use of drugs, chronic intoxication, fraud, confinement, or disappearance, is unable to meet the person's own needs or to seek help without assistance.

SCOPE

APS investigates reports of abandonment, exploitation, abuse, neglect, or self-neglect for any adult age 18 or older, who is vulnerable. Being vulnerable means that due to incapacity, mental illness or deficiency, physical illness or disability, advanced age, chronic use of drugs, chronic intoxication, fraud, confinement, or disappearance, the adult is unable to meet his or her own needs or to seek help without assistance.

APS investigates reports in out-of-home care facilities only if the alleged victim is younger than age 60. If the alleged victim is age 60 or older, such reports would be transferred for investigation to the long-term care ombudsman.²

¹ New Long-Term Care Ombudsman program rules are clear that LTCO do not investigate APS allegations so this policy may be changing in Alaska.

APS investigates the following types of maltreatment types: abandonment, exploitation, abuse, neglect, or self-neglect. See appendix B for full definitions.

CONFIDENTIALITY

Maltreatment reports are confidential and cannot be made available to the public. However, appropriate agencies or individuals inside and outside the state may use investigation reports when necessary, in connection with investigations or judicial proceedings involving abandonment, exploitation, abuse, neglect, or self-neglect.

The report can be disclosed with the consent of the vulnerable adult who is subject of the report, or his or her guardian or decision-maker, unless that guardian or decision-maker is the alleged perpetrator. When requested, the department can disclose the number of verified reports of maltreatment of a vulnerable adult that occurred at an institution providing care for vulnerable adults or by a public home care provider.

GUIDING PRINCIPLES

APS operates according to the following guiding values and practice guidelines.

Guiding Principles of Adult Protective Services:

- *When interests compete, the adult client is the person Adult Protective Services is charged to serve; not the community concerned about safety, the landlord concerned about property, citizens concerned about crime or mortality, or families concerned about their own health or finances.*
- *When interest compete, the adult client is in charge of decision making until he or she voluntarily delegates responsibility to another or the court grants responsibility to another.*
- *Freedom is more important than safety. The person can choose to live in harm or even self-destructively provided that he or she has the capacity to choose, does not harm others and commits no crime.*
- *In the ideal case, protection of adults seeks to achieve simultaneously, and in order of importance: freedom, safety, least disruption of life-style and least restrictive care alternatives.*

INTAKE

REPORTERS

The following people are required to report to APS within 24 hours if they believe that a vulnerable adult is suffering from abandonment, exploitation, abuse, neglect, or self-neglect:

- physician or other licensed health care provider
- mental health professional, including a marital and family therapist
- pharmacist
- administrator or employee of a nursing home, residential care or health care facility
- guardian or conservator
- police officer
- village public safety officer
- village health aide
- social worker
- member of the clergy
- staff employee of a project funded by the Department of Administration for the Provision of services to older Alaskans, the Department of Health and Social Services, or the Council on Domestic Violence and Sexual Assault
- employee of a personal care or home health aide program
- emergency medical technician or a mobile intensive care paramedic
- caregiver of the vulnerable adult
- certified nurse aide
- educator or administrative staff member of a public or private educational institution

Reports can be made anonymously, and the identity of an individual who files a report of harm with Adult Protective Services remains confidential.

PRIORITIES

The priorities and requirements are associated with the reporter. The mandated reporter must make the report within 24 hours after having the belief of maltreatment. If the reporter believes that immediate action is necessary to protect the vulnerable adult from imminent risk of serious physical harm, he or she should make the report to a police officer or village police safety officer. The police or village police safety officer then must act immediately to protect the vulnerable adult, and then notify the APS department at the earliest opportunity.

Based on the extant materials, no information is available on timeframes for APS response.

INVESTIGATION

AUTHORITY

State policy provides authority to conduct various investigatory activities, including:

- access to victims,
- access to information,

- cooperation with law enforcement

The department, or its designee, after receiving a report shall promptly begin an investigation to determine whether the vulnerable adult who is the subject of the report suffers from abandonment, exploitation, abuse, neglect, or self-neglect. If the department believes that the vulnerable adult is in need of protective services, it may petition the court, refer the report to a police officer for criminal investigation; or in cases involving fraud, refer the report to the office of public advocacy for investigation.

If the vulnerable adult who is the subject of the report requests to terminate the investigation, it should be terminated unless the investigation has already resulted in probable cause to believe that the vulnerable adult is in need of protective services. The department also would note if the request is made by a vulnerable adult who is not competent to make the request or by the vulnerable adult's guardian, attorney-in-fact, or surrogate decision maker when that person is the alleged perpetrator of the maltreatment of the vulnerable adult.

CASE INITIATION

To initiate the case, the APS worker should conduct a face-to-face interview with the subject of the report unless that person is unconscious or such an interview could further endanger the vulnerable adult.

When the long-term care ombudsman receives a report, either directly or as referred by APS, they must provide the results of their actions or investigations back to APS, and coordinate and cooperate in their responses to and investigation of reports with other jurisdictions when they overlap.

Based on the extant materials, no information is available about notifications required to initiate a case.

CONDUCTING INVESTIGATION

When the long-term care ombudsman investigates a report, they must provide the results of their investigations to the central information and referral service of the department within 60 days after the receipt of the report. When the APS department investigates a report, the policy manual does not specify timeframes. The average time to complete an investigation reported to NAMRS was 55 days.

Based on the extant materials, no information is available about professionals or organizations providing access to records, or systematic client assessments.

DISPOSITIONS

The required standard of evidence for substantiating an allegation of maltreatment is credible, reasonable, or probable cause.

After the investigation is concluded, the department will make a determination of whether and what kind of supportive or protective services are needed and should be offered to the vulnerable adult, and include this in a written report with the findings of the investigation.

The person who made the report to the department should be notified of the status of the investigation if he or she requests it.

If an investigation finds that a certified nurse aide has committed abuse, neglect, or misappropriation of property, this should be reported to the Board of Nursing. Based on the extant materials, no other information is available on legal consequences for perpetrators.

POST-INVESTIGATIVE SERVICES

AUTHORITY

If the department determines that a vulnerable adult needs protective services, these services should be provided within 10 working days after the report, as long as either the vulnerable adult or his/her guardian or surrogate decision-maker consents to the services, and resources are available. If circumstances beyond the control of the department make it impossible to provide the protective services within 10 working days, the department shall ensure that services are provided as soon as possible after that time.

If the department determines that a vulnerable adult needs protective services, but he/she is unable to consent or lacks decision making capacity, and has no guardian or attorney to serve as surrogate decision maker, the department may select an individual who is willing to be the vulnerable adult's surrogate decision maker for the purpose of deciding whether to consent to the vulnerable adult's receipt of protective services.

If the department determines that an emergency situation necessitates provision of protective services to a vulnerable adult, they can provide these regardless of whether the vulnerable adult or any other person has consented to receipt of the services.

APPROACH

Protective services should be provided, as much as possible, in a culturally relevant manner that protects the vulnerable adult's right to the least restrictive environment and maximizes that person's own decision-making capabilities.

Based on the extant materials, no information is available on state budgeted funds for APS services, or on policies regarding case closure.

QUALITY ASSURANCE

The department will monitor the adult's situation, as appropriate, until the department determines that the adult no longer needs protective services.

Following each investigation, the department designee will prepare a written report including findings, recommendations, and a determination of whether and what kind of supportive or protective services are needed by and are to be offered to the vulnerable adult. Attached to the report will be a final determination regarding services to be offered to the vulnerable adult.

Based on the extant materials, no information is available about the role of the supervisor or other quality assurance activities.

Arizona

Name of Agency	Arizona Department of Economic Security
Name of Program	Adult Protective Services
Data Sources	<p>Arizona Adult Protective Services Authority – ARS 46-451 to 46-459; ARS 41-1959</p> <p>Administrative Code; Title 6- Chapter 8 – Adult Protective Services</p> <p>Arizona’s Vulnerable Adults: They Are Worth Protecting (publication by the Arizona Department of Economic Security)</p> <p>Arizona’s Adult Protective Services Annual Report FY 2016, Revised June 1, 2017</p> <p>Arizona’s Adult Protective Services Annual Report FY2017, December, 2017</p> <p>NAMRS Agency Component Data FFY2016 Report</p> <p>APS Investigations Policy and Procedures Manual (Effective 2-15-2018)</p> <p>Central Intake Unit Policy and Procedure Manual (Effective 2-15-2018)</p>

CONTEXT

ADMINISTRATION

The Arizona Adult Protective Service Program operates under the Arizona Revised Statutes Title 46-451 to 46-459. It is a state-run program within the Arizona Department of Economic Security, Division of Aging and Adult Services, that includes a statewide Central Intake Hotline, Financial Exploitation Unit, five APS districts, and an Administrative Appeals process. APS investigates allegations of abuse, neglect, including self-neglect, and exploitation of vulnerable adults in private residences, group homes, assisted living facilities, nursing homes and other settings.

SCOPE

APS investigates allegations of abuse, neglect, and exploitation by others and of self-neglect and makes referrals to community services based on individual need and acceptance. See appendix B for definitions of the maltreatment types. A “vulnerable adult” is an individual who is eighteen years of age or older and who is unable to protect him/herself from abuse, neglect, or exploitation by others because of a physical or mental impairment. Vulnerable adult includes an incapacitated person as defined in A.R.S. §14-5101. An incapacitated person is any person who is impaired by reason of mental illness, mental deficiency, mental disorder, physical illness or disability, chronic use of drugs, chronic intoxication or other cause, except minority, to the

extent that he lacks sufficient understanding or capacity to make or communicate responsible decisions concerning his/her person.

The alleged perpetrator may be a caregiver, paid or unpaid, or any person, known or unknown, to the vulnerable adult. APS investigates individuals, including individuals serving in a care provider capacity. APS does not investigate facilities, and cross-reports to the appropriate licensing agency.

CONFIDENTIALITY

All personally identifiable information of any person involved in the investigation, other than a perpetrator against whom an allegation of abuse, neglect or exploitation has been substantiated, is confidential and will not be released unless ordered by a superior court judge or provided for by rule of court except as provided below: 1. when a written request is made by an applicant, claimant, recipient, employer or client specifically requesting information that directly relates to the person requesting such information; 2. To make claims on behalf of a client for public or private assistance, insurance or health or medical assistance; 3. In communications between employees or contractors of the Department regarding the referral for or provision of services to a client; 4. To protect against a clear and substantial risk of imminent serious injury to a client; 5. To agencies of the federal government, this state or any political subdivision of this state for official purposes; 6. To foster parents and persons certified to adopt if necessary to assist in the placement with or care of a child by such persons; 7. To any judicial or administrative proceeding involving an adult protective services client if the director of the Department considers the information pertinent to the proceeding; and 8. For the development of a state workforce evaluation data system and program performance purposes and other program and research purposes as defined in a data sharing agreement, but not including information regarding adult or child protection actions. Personally identifiable information may also be released to a standing legislative committee only for the purposes of conducting investigations related to legislative oversight of the department.

GUIDING PRINCIPLES

APS believes that vulnerable adults have the right to live a life free from abuse, neglect, and exploitation and that when they lack the capacity to meet their basic needs, they should be provided assistance to ensure their safety and well-being. APS maintains a client-centered approach. The adult is in charge of decision making until the adult voluntarily delegates or the court grants responsibility to another. An adult can choose to live in harm or even self-destructively, provided the adult is competent to choose, does not harm others, and commits no crimes.

The intent of the APS law is to accept and process valid reports but not to unduly infringe on an adult's privacy rights. APS is the safety net for the vulnerable adults in Arizona and reports are

screened based on the pertinent and sufficient information needed to have reason to believe that abuse, neglect, self-neglect, or exploitation of a vulnerable adult has occurred. The goal is to balance a person's right to personal freedom while attempting to protect adults who are unable to protect themselves.

APS believes in the importance of collaborative partnerships between APS, families, and community stakeholders to ensure that vulnerable adults are protected, and their needs are met. Through active collaboration with a variety of agencies and stakeholders across the state, APS works with these partners to protect Arizona's vulnerable adults and provide community awareness and education to prevent vulnerable adult maltreatment.

INTAKE

REPORTERS

State law mandates certain persons to report abuse, neglect and exploitation of vulnerable adults. The mandatory reporters include: a physician, registered nurse practitioner, hospital intern or a resident, surgeon, dentist, psychologist, social worker, peace officer or other person who has responsibility for the care of a vulnerable adult; an attorney, accountant, trustee, guardian, conservator or other person who has responsibility for preparing the tax records of a vulnerable adult; or a person who has responsibility for any other action concerning the vulnerable adult's property. Any person other than one required to report or cause reports to be made listed above who has a reasonable basis to believe that abuse or neglect of a vulnerable adult has occurred may report the information to a peace officer or to the APS Central Intake Unit.

A.R.S. § 41-1959 states that all personally identifiable information is to be maintained as confidential and may only be released under certain conditions (see Confidentiality above).

Any person making a report or furnishing information or records to assist in the investigation, or a judicial or administrative proceeding is immune from any civil or criminal liability, unless the person acted with malice or the person has been charged with or suspected of abusing, neglecting, or exploiting the vulnerable adult in question. (See A.R.S. § 46-453).

PRIORITIES

The APS Central Intake Customer Service Representative uses the information provided by the reporting source to determine whether state law authorizes the APS program to investigate the allegations, and if so, to determine a response time priority level. The report is then routed to the field for investigation. Response times are prioritized as:

- Priority 1: Within one business day of a report that contains a qualifying problem with an imminent and substantial risk of life-threatening harm.

- Priority 2: Within two business days of a report that contains a qualifying problem with moderate aggravating circumstances.
- Priority 3: Within five business days of a report that contains a qualifying problem with mitigating or no aggravating circumstances.

INVESTIGATION

AUTHORITY

If all avenues to gain access to a client believed to be incapacitated and abused, neglected or exploited have been exhausted and access is denied, the APS investigator may apply for a Special Visitation Warrant (A.R.S. § 14-5310.01). A special visitation warrant, if obtained, grants the APS investigator access to visit the residence to make a determination of the need of protective services.

A person having custody or control of medical or financial records of a vulnerable adult shall make such records, or a copy of such records, available to the APS investigator upon written request for the records.

APS cross reports and coordinates with law enforcement on known or suspected criminal activity and may also engage law enforcement, paramedics, or other emergency personnel, if an alleged life-threatening situation is present.

Adults have the right to refuse to participate in the investigation. APS will not provide protective services without the consent of the vulnerable adult, provided s/he has the capacity to make or communicate informed decisions. APS does not have the authority to take control of the vulnerable adult or his/her finances or to remove an adult against his/her will.

When a client has a mental disorder and, as a result, is believed to be a danger to self or to others, to have a persistent or acute disability, or to have a grave disability, and is unwilling or unable to undergo voluntary evaluation, the APS investigator may refer the matter to an authorized local mental health screening/evaluation agency. That agency completes a prepetition screening to determine whether there is reasonable cause to believe that a court ordered evaluation is needed. This evaluation may lead to dismissal of the petition, voluntary treatment, or court-ordered treatment.

As an intervention of last resort after all other alternatives have been explored for an adult who is unable to make or carryout decisions, the APS investigator may cause a petition to be filed as necessary for the appointment of a guardian or conservator or the appointment of a temporary guardian or temporary conservator. The APS investigator employed by the department may not be appointed as guardian, conservator or temporary guardian.

CASE INITIATION

Once a report from the APS Central Intake Hotline is screened in for investigation, a field APS Supervisor reviews and assigns it to an APS investigator for investigation. Based on the response time determined by the APS Central Intake Hotline, the APS investigator starts the investigation by visiting the reported individual and initiating the face-to-face interview with the vulnerable adult within one, two, or five business days. The APS investigator is required to exercise due diligence in locating the client. Examples of diligent efforts, include, but are not limited to, making at least three attempts to locate the client at his/her residence at different times of day during the time frame for initial response; conducting a name search in the APS database and reviewing prior case records; attempting to locate the client at other facilities listed on the APS intake tool, such as school, place of employment, day programs, or hospitals; and interviewing other persons with knowledge of the client.

The reporting source is notified of whether an investigation will be initiated. Cross reporting to entities such as law enforcement, the Arizona Department of Child Safety, the Division of Developmental Disabilities, and the Arizona Department of Health and the Long Term Care Ombudsman is completed when indicated.

CONDUCTING INVESTIGATION

An APS investigator will review reports and information from other sources to determine if the adult qualifies as a vulnerable adult and whether the allegations of abuse, neglect, self-neglect, or exploitation occurred. When needs of the vulnerable adult are identified, the APS investigator provides information about available community resources. Diligent efforts are also made to locate and interview the alleged perpetrator, if applicable. APS has a Financial Exploitation Unit responsible for investigating allegations and providing consultation services to APS investigators. APS has a Registered Nurse who provides consultation services to the APS Program.

A person having custody or control of medical or financial records of a vulnerable adult is required to make such records available to an APS investigator.

APS conducts a client assessment covering areas such as the client's appearance, identifying information, financial information, physical status including any disabilities, medications, medical history, mental status, functional status, behavioral status, social environment, physical environment, nutrition, services provided by other resources, and the client's perception of the situation/allegations. In addition to this information gathered, the APS program plans to implement a new safety assessment and a revised risk assessment in 2018.

The APS program is focused on decreasing timelines to complete investigations, with the goal of completing investigations within 60 days.

DISPOSITIONS

APS findings include:

- **Substantiated:** Determination made that an incident of abuse, neglect, or exploitation of a vulnerable adult occurred based on a preponderance of evidence burden of proof. These findings are maintained in the Adult Protective Services registry.
- **Unsubstantiated:** A report is unsubstantiated when, after an assessment, there is insufficient evidence that abuse, neglect or exploitation of a vulnerable adult has occurred.
- **Verified:** A report is considered verified when there is enough evidence to support that the allegation(s) occurred, but APS will not be proposing substantiation due to one or more of the following reasons: the allegation is self-neglect; the case involves lottery scams or telemarketers; the case involves a vulnerable adult caring for another vulnerable adult; and/or the case involves an unknown perpetrator.

APS provides the results of the APS investigation to the reporting source and the alleged victim. APS notifies the alleged perpetrator of the outcome of its investigation.

If APS has proposed substantiation of the allegation(s), the alleged perpetrator may request a hearing, if eligible, through the Office of Administrative Hearings. After the hearing, the Administrative Law Judge makes a recommendation to uphold the substantiation or not based on the evidence presented at the hearing. The recommendation is given to the DES Director who may accept the recommendation, modify it or reject it. If the substantiation is upheld, the perpetrator's name is placed on a public registry for twenty-five (25) years. If the alleged perpetrator does not request a hearing, their name will automatically be placed on the registry. The APS Registry contains the name and date of birth of the perpetrator, and the nature of the allegation. Information contained on the APS Registry is available on the DES website.

POST-INVESTIGATIVE SERVICES

AUTHORITY

The goal of Adult Protective Services is to evaluate allegations and offer referrals to services necessary to resolve abuse/neglect/exploitation of vulnerable adults. Referrals to community services are provided to all clients when a need is identified. APS cannot require the adult to accept services.

APPROACH

The APS program holds the value of being person-centered and honoring and understanding an individual's self-determination, history, and culture. In the ideal case, protection of adults seeks to achieve simultaneously and in order of importance:

- a. Freedom;
- b. Safety;
- c. Least disruption of life-style; and
- d. Least restrictive care alternative.

With limitations and program approval, the Adult Protective Services program may purchase essential goods/services when necessary to prevent or de-escalate abuse, neglect, and/or exploitation; to support the case plan; not securable in a timely manner through other resources; and agreed to by client.

Case closure reasons include: allegations are not substantiated; the abuse, neglect, or exploitation is resolved by the provision of services or other methods; the client's capacity is not in question and the client is refusing APS involvement or is not accepting viable remedies for prevention of risk; the client has moved outside the jurisdiction; the client dies; contact with the client is lost and three attempts to re-establish contact have failed; or guardianship or conservatorship is obtained.

QUALITY ASSURANCE

After the allegations of abuse, neglect, or exploitation by others or self-neglect are investigated, the APS supervisor reviews the case record for completeness and quality before approving the case for closure. The APS supervisor reviews and approves the case for closure within five (5) business days of submission of the closure summary by the APS investigator for supervisory review. The APS supervisor reviews the electronic and hard copy case record to ensure compliance with APS policies and procedures and that the client's needs are met utilizing the *Case Closure Review Instrument* prior to approving the case for closure.

APS creates a case record (electronic and hard copy case record) for the alleged victim of an APS report. Case records include an electronic record maintained in the Arizona Adult Protective Services System (AZAPSS) and a hard copy case record. The hard copy case record is maintained in the local office and includes documents gathered from other agencies and hard copy forms not maintained electronically.

The APS Quality Assurance (QA) team is responsible for the review and support of the Central Intake Hotline and investigation activities with a focus on ensuring the safety of the vulnerable adults served, strengthening APS practices, and improving efficiencies.

Arkansas

Name of Agency	Arkansas Department of Human Services
Name of Program	Adult Protective Services
Data Sources	2016 Public Benefits & Services for Arkansas Seniors NAMRS Agency Component Data FFY2016 Report Public Health Report 2006

CONTEXT

ADMINISTRATION

The Division of Aging, Adult, and Behavioral Health Services of the Arkansas Department of Human Services administers the Adult Protective Services (APS) program. Arkansas APS administers two Acts: the Adult and Long-Term Care Facility Resident Maltreatment Act, Ark Code Ann. 12-12-1701 et seq., and the Adult Maltreatment Custody Act, Ark Code Ann. 9-20-101 et seq.

APS' statutory responsibilities include:

- Providing a system for the reporting of suspected adult abuse, neglect, or exploitation;
- Conducting prompt and thorough investigations of reported adult maltreatment;
- Working with law enforcement agencies, courts, and other state agencies to investigate adult maltreatment, assess alleged victims, and obtain prosecution for the offenders; and
- Protecting maltreated adults who are in imminent danger.

SCOPE

Adult Protective Services investigates maltreatment, abuse, neglect and exploitation of individuals age 18 and older. Arkansas statute has definitions for endangered adults and impaired adults.

"Endangered adult" means:

- *An adult eighteen (18) years of age or older who:

 - *Is found to be in a situation or condition that poses a danger to himself or herself an imminent risk of death or serious bodily harm to that person; and*
 - *Demonstrates a lack of capacity to comprehend the nature and consequences of remaining in that situation or condition**

"Impaired adult" means a person eighteen (18) years of age or older who, as a result of mental or physical impairment, is unable to protect himself or herself from abuse, sexual abuse, neglect, or exploitation.

APS investigates allegations of adult maltreatment in the community and for residents of long-term care facilities when the alleged perpetrator is a family member.

The Office of Long-Term Care of the Division of Medical Services of the Department of Health and Human Services shall investigate all cases of suspected maltreatment of a long-term care facility resident.

APS investigates reports of emotional abuse, exploitation (non-specific), neglect, physical abuse, self-neglect, and sexual abuse, appendix B provides definitions of maltreatment types.

CONFIDENTIALITY

APS investigations with a disposition of "founded" are confidential and are available only to persons outlined in statute. Persons who may obtain a founded investigation of the endangered or impaired adult are:

- Physician
- Person authorized to place the adult in protective custody
- An agency that has responsibility for care or supervision of the adult
- The victim or their legal guardian
- A grand jury or court
- Prosecuting attorney, law enforcement, coroner or the Attorney General
- The Death Review Committee of the agency
- The administrator of a long-term care facility
- A service provider for the adult
- Any applicable licensing or registering authority

A mandatory reporter may receive limited information at the completion of the investigation if legal action was taken, if services were provided or if no action was taken.

Reports that are screened out at intake or pending completion of the investigation are confidential with the exceptions outlined in statute. The exceptions are:

- The Department of Health and Human Services, including the Death Review Committee
- Law enforcement
- A prosecuting attorney
- The office of the Attorney General

- A grand jury or court
- A service provider for the adult
- Any applicable licensing or registering authority
- The alleged victim

Investigations with an “unfounded” disposition are also confidential. They may only be released to the following:

- The Death Review Committee
- Law enforcement
- A prosecuting attorney
- The office of the Attorney General
- Any applicable licensing or registering authority;
- The alleged victim or their legal guardian;
- A grand jury or court;
- A service provider for the adult.

GUIDING PRINCIPLES

The ethical practice of the APS worker is guided by values commonly accepted in the profession of social work. The following are guidelines practiced by Arkansas APS:

- *Casework is to be client-focused, individualized, and based on a social work model of problem solving as opposed to a prosecutorial or purely psychological approach.*
- *The vulnerable adult is the primary client rather than the community or the family.*
- *The client is presumed to be mentally competent and in control of decision making until facts prove otherwise.*
- *The client actively participates in defining the problem and deciding the most appropriate course of action to resolve it.*
- *The client exercises freedom of choice and the right to refuse services as long as the individual has the capacity to understand the consequences of his or her actions.*
- *The service alternatives that are pursued are the least restrictive possible; more intrusive remedies, such as guardianship or institutionalization, are undertaken as a last resort.*

INTAKE

REPORTERS

The following are considered mandatory reporters for the state and must file a report within 24 hours:

- *Physician*
- *Surgeon*
- *Coroner*
- *Dentist*
- *Dental hygienist*
- *Osteopath*
- *Resident intern*
- *Nurse*
- *Member of a hospital's personnel who is engaged in the administration, examination, care, or treatment of persons*
- *Social worker*
- *Case manager*
- *Home health worker*
- *Mental health professional*
- *Peace officer*
- *Law enforcement officer*
- *Facility administrator or owner*
- *Employee in a facility*
- *Employee of the department of health and human services*
- *Firefighter*
- *Emergency medical technician*
- *Employee of a bank or other financial institution*
- *Employee of the post office*
- *Employee of a utility company*
- *Employee or volunteer who enters the home or has contact with the elderly*
- *Newspaper carrier*
- *Person associated with the care and treatment of animals, such as animal control officers and the humane society*
- *Employee who enforces code requirements for a city, township or municipality*
- *Any clergyman, which includes a minister, priest, rabbi, accredited Christian Science practitioner, or other similar functionary of a religious organization, or an individual reasonably believed to be so by the person consulting him or her, except to the extent he or she:

 - *Has acquired knowledge of suspected maltreatment through communications required to be kept confidential pursuant to the religious discipline of the relevant denomination or faith**

- *Received the knowledge of the suspected maltreatment from the offender in the context of a statement of admission*

The identity of reporters is kept confidential unless a court orders the release of information is necessary to prevent execution of a crime or for prosecution of a crime.

PRIORITIES

For priority one (emergency) reports the response time is 24 hours, not including weekends or holidays, and priority two reports the response time is 72 hours, not including weekends or holidays.

Based on extant material, no additional information is available on priority levels.

INVESTIGATION

AUTHORITY

APS can access the alleged victim's home with permission. If admission cannot be obtained, a court order may be sought for allowance to enter, examine, and investigate the home, institution, or other place where the alleged maltreated person is present.

APS is also granted access to medical, mental health, or other records as well as financial records necessary for conducting the investigation.

Law enforcement assistance may be requested to assist with the investigation; however, their participation is not mandated by statute.

The Department of Health and Human Services may petition the circuit court for an order of temporary custody for the purpose of having an adult evaluated if during the course of an investigation under the Adult and Long-Term Care Facility Resident Maltreatment Act, § 12-12- 1601 12-12-1701 et seq., the department determines that:

- *Immediate removal is necessary to protect the adult from imminent danger to his or her health or safety;*
- *Available protective services have been offered to alleviate the danger and have been refused; and*
- *The adult's capacity to comprehend the nature and consequences of remaining in the situation or condition cannot be adequately assessed in the adult's place of residence; or*
 - *The adult's mental or physical impairment and ability to protect himself or herself from adult maltreatment cannot be adequately assessed in the adult's place of residence.*

Emergency custody may also be instituted by the Department of Human Services, a law enforcement official, a person in charge of a hospital, or a physician if it is believed returning the adult to their residence poses imminent danger and the adult lacks the capacity to comprehend the danger of the situation. This custody must not exceed 72 hours, unless the allotted time expires on a holiday or weekend it will be extended to the next business day. A probable cause hearing must be conducted within 5 days of the emergency custody order to determine if the emergency order needs to be extended. A long-term custody hearing must be conducted within 30 days of the probable cause hearing.

Based on extant material, no information is available on whether or not an alleged victim can refuse an investigation.

CASE INITIATION

Based on information in their NAMRS profile, priority one (emergency) reports response time is 24 hours and priority two reports the response time is 72 hours. The time frames do not include weekends or holidays.

Based on the extant materials, no information is available on notifications or other actions required to initiate a case.

CONDUCTING INVESTIGATION

APS staff utilize a 14-page Comprehensive Assessment Tool in electronic format to thoroughly document the condition of the individual. The assessment includes questions about the following:

- General Interview Questions
 - Physician's name
 - Last doctor visit
 - Prescribed medications
 - Description of appetite
 - Description of a typical day
 - If the client is currently receiving services
 - Does the client live in their own home?
 - Who manages the client's money?
- Orientation Questions
 - Place of birth
 - What day/month/year/season is it
 - Who was the first president
 - Address

- Using check boxes, the APS worker will identify symptoms for the following categories:
 - Neglect
 - Abuse
 - Behavior
 - Personal Hygiene
 - Environment
 - Finance
 - Lack of Support
 - Areas where assistance is needed
- A rating scale to identify impairment in the following categories:
 - Alertness and attention
 - Ability to process information
 - Assess the client's visio-spatial skills
 - Assess the client's judgment
 - Assess thought disorders
- Conduct a geriatric depression test
- Assess the client's functional activities
- Assess the client's ability to conduct daily living activities
- Score the client's functional ability for daily living tasks
- Conduct a series of tests/assessments to score the client on the following:
 - Orientation to time
 - Orientation to place
 - Registration
 - Attention and calculation
 - Recall
 - Naming
 - Repetition
 - Comprehension
 - Reading
 - Writing
 - Drawing

All investigations must be completed within 60 days.

DISPOSITIONS

The standard of evidence for substantiating a case is preponderance of the evidence. The dispositions are:

- *Unfounded, a finding that shall be entered if the allegation is not supported by a preponderance of the evidence; or*
- *Founded, a finding that shall be entered if the allegation is supported by a preponderance of the evidence.*

The investigation and written investigative report shall include:

- *The nature, extent, and cause of the maltreatment;*
- *The identity of the person responsible;*
- *The names and conditions of other adults in the home, if the incident occurred in a home;*
- *An evaluation of the persons responsible for the care of the maltreated person, if any;*
- *The home environment, the relationship of the maltreated person to the next of kin or other person responsible for his or her care, and all other pertinent data; and*
- *A visit to the maltreated adult's home, if the incident occurred in the home, and an interview with the maltreated adult.*

After making an investigative determination, the department shall notify in writing within ten (10) business days:

- *The person identified as the offender.*
- *Either the:*
 - *Person identified as the maltreated person;*
 - *Legal guardian of the maltreated person; or*
 - *Natural or legal guardian of a long-term care facility resident under eighteen (18) years of age;*
- *The current administrator of the long-term care facility if the incident occurred in a long-term care facility; and*
- *If known by the Office of Long-term Care, the administrator of the long-term care facility that currently employs the offender if different from the long-term care facility in which the incident occurred.*

The Department of Human Services maintains statewide adult maltreatment registry for investigations conducted by APS and in long-term care facilities. The registry contains all founded allegations of adult maltreatment. The perpetrator is placed on the registry after due process is completed. The information in the registry may be release to:

An employer or volunteer agency for the purpose of screening an employee, applicant, or volunteer upon submission of a signed, notarized release from the employee, applicant,

or volunteer. The only information released to the employer or volunteer agency shall be whether or not the adult and long-term care facility resident maltreatment central registry contains any founded reports naming the employee, applicant, or volunteer as an offender

POST-INVESTIGATIVE SERVICES

AUTHORITY

The policy manual provides a definition for “Protective Services”, but does not specify in the client’s case must be founded first.

"Protective services" means services to protect an endangered or impaired adult from:

- *Self-neglect or self-abuse; or*
- *Abuse or neglect by others.*
 - *Protective services may include:*
- *Evaluation of the need for services;*
- *Arrangements or referrals for appropriate services available in the community;*
- *Assistance in obtaining financial benefits to which the person is entitled; or*
- *As appropriate, referrals to law enforcement or prosecutors;*

Based on the extant materials, no information is available on the availability of services to family members or perpetrators or if clients can refuse services.

APPROACH

One of the guidelines for the Arkansas APS program is “The service alternatives that are pursued are the least restrictive possible; more intrusive remedies, such as guardianship or institutionalization, are undertaken as a last resort.”

The department may compel the allegedly maltreated person to be evaluated in the least restrictive environment and least intrusive manner necessary to obtain an assessment if:

- *The department is unable to secure an order of investigation from the Circuit Court during regular business hours;*
- *The department has reasonable cause to suspect a significant risk for serious harm to the health or safety of the adult; and*
- *The department cannot adequately assess:*
 - *The adult’s capacity to comprehend the nature and consequences of remaining in the situation or condition; or*

- *The adult's mental or physical impairment and ability to protect himself or herself from maltreatment.*

There are many services available for adults; however, the services are not directly provided by APS. Rather, APS refers clients to services that are purchased through the Older American Act, state general revenue, dedicated state taxes, and donations.

Based on the extant materials, no information is available on the timeliness or criteria for case closure.

QUALITY ASSURANCE

Based on the extant materials, no information is available on the role of the supervisor in reviewing and approving investigations, the establishment of a case record, or quality assurance activities.

California

Name of Agency	California Department of Social Services
Name of Program	Adult Protective Services
Data Sources	California APS Manual APS Guidelines to Supplement Regulations, August 2016 NAMRS Agency Component Data FFY2016 Report

CONTEXT

ADMINISTRATION

The California Welfare and Institutions Code Section CHAPTER 13 establishes the Adult Protective Services (APS) program. The state APS office is located in the California Department of Social Services. The APS program is county-administered.

There are Memorandums of Understanding between the Local Public Guardian Program and Local Adult Protective Services in some counties for the coordination of services regarding investigations.

APS employees are hired at the county level; in smaller counties, these staff members may support multiple county programs.

SCOPE

APS serves elder adults (65+) and dependent adults (18-64). The state APS Manual defines dependent adults as:

- *any person residing in this state, between the ages of 18 and 64 years, who has physical or mental limitations that restrict his or her ability to carry out normal activities or to protect his or her rights including, but not limited to, persons who have physical or developmental disabilities or whose physical or mental abilities have diminished because of age.*
- *includes any person between the ages of 18 and 64 who is admitted as an inpatient to a 24-hour health facility*

APS does not investigate long-term care facilities; however, it investigates unlicensed facilities suspected of elder and dependent adult abuse. To be eligible for services, clients must not live in long-term care facilities, state hospitals, or state developmental centers.

The state APS Guidelines define these facilities as:

- *an unlicensed community care facility as a location that is not exempt from licensure and where any of the following exist: the facility is providing elements of care and supervision, the facility represents itself as providing care and supervision, the facility represents itself as a licensed facility, or the facility accepts or retains clients who require care and supervision.*

APS investigates the following maltreatment types:

- Physical abuse
- Sexual abuse
- Financial abuse
- Neglect
- Self-neglect
- Psychological abuse (mental suffering)
- Abandonment
- Isolation
- Abduction

Appendix B provides the definitions of maltreatment.

CONFIDENTIALITY

APS investigation information is confidential.

According to the APS Guidelines, exceptions to confidentiality include:

Information relevant to the incident of elder or dependent adult abuse may be given to an investigator from an APS agency, a local law enforcement agency, the office of the district attorney, the office of the public guardian, the probate court, the bureau (Department of Justice, Bureau of Medi-Cal Fraud and Elder Abuse), or an investigator of the Department of Consumer Affairs, Division of Investigation who is investigating a known or suspected case of elder or dependent adult abuse.

GUIDING PRINCIPLES

Based on the extant materials, no information is available on a defined set of ethical principles. California has developed several guidelines for consistency standards, including:

- Introduction to California APS Standards for Consistency in Determining Findings
- The California APS Standards for Consistency in Determining Findings Matrix
- Guiding Principles for Consistency in Determining Findings
- Introduction to the California APS Framework for Determining Dependent Adult Status

- Determining Dependent Adult Status Guide
- Dependent Adult Definition Chart
- Guiding Principles for APS Case Documentation
- California APS Standards for Consistency in Case Documentation 2015
- APS Guidelines for Investigations
- Best Practices for APS Initiated Restraining Order (AIRO)
- Guiding Principles for Positive Outcomes
- California APS Standards for Consistency in Outcomes

INTAKE

REPORTERS

The APS Manual defines a mandated reporter as

Any person who has assumed full or intermittent responsibility for care or custody of an elder or dependent adult, whether or not that person receives compensation, including administrators, supervisors, and any licensed staff of a public or private facility that provides care or services for elder or dependent adults, or any elder or dependent adult care custodian, health practitioner, or employee of a county adult protective services agency or a local law enforcement agency is a mandated reporter.

APS agencies protect the identity of reporters. It may only be disclosed among the APS agency, a Local Long-Term Care Ombudsman Program (LTCOP), a licensing agency, or others as permitted by statute.

PRIORITIES

If there is a report of an immediate life threat, imminent danger, or a crisis in an existing case, an attempt to immediately make in-person contact with the elder or dependent adult for purposes of intake or intervention is required. “Immediate life threat” means the elder or dependent adult is presently at risk of serious physical harm, injury, or death through either his/her own action(s) or inaction, or as a result of the actions or inaction of another person.

Additionally, APS must provide an immediate in-person response when the local law enforcement agency requests it.

APS must respond to all other reports of danger of abuse or neglect as soon as necessary to protect the elder or dependent adult, but in no case shall the response be more than 10 calendar days from the initial report.

INVESTIGATION

AUTHORITY

Law enforcement must be notified if there is known or suspected physical abuse or neglect. They must also be notified if there is reasonable suspicion of criminal activity as it relates to financial abuse. Law enforcement is also called when assistance is needed accessing the elder or dependent adult's residence.

An alleged victim may refuse an investigation; however, the investigation will continue if there is risk of serious injury, death, or significant property loss or there is an alleged penal code violation.

APS agencies may file an APS Initiated Restraining Order (AIRO) for a client who has suffered abuse and 1) is unable to recognize the risk of harm or 2) has provided written authorization.

APS agencies are encouraged to enter into a Memoranda of Understanding (MOU) with the following partners prior to implementing an AIRO:

- *Public Guardian (PG) Domestic Violence Shelters*
- *County Counsel Possibly a Judge/ Commissioner*
- *Regional Center*
- *Long Term Care Ombudsman*
- *Senior Law Center Victim Advocates*
- *District Attorney Victim Services*
- *Law Enforcement*
- *Mental Health Partners*

APS agencies may petition temporary conservatorship if they believe the elder or dependent adult is incapacitated and unable to give or deny to the consent of services.

CASE INITIATION

APS agencies must make an immediate, in-person response when there is a report of immediate life threat, imminent danger, or a crisis. All other reports must be responded to in a timely manner not exceeding 10 days.

Based on the extant materials, no information is available on who is required to be notified to initiate a case.

CONDUCTING INVESTIGATION

Investigative workers must complete the following when conducting an investigation:

- 1) Steps prior to meeting the alleged victim:
 - a) Assess the level of risk to the client
 - b) Research previous reports involving the client, if any
 - c) Contact the reporting party to collect information pertinent to the case

- d) Develop of preliminary plan for the unannounced home visit, such as who to interview, what information is necessary to confirm the allegation, and when to do the home visit
- 2) Meet the client face to face
- 3) Interview the alleged perpetrator
- 4) Contact collateral contacts
- 5) Document the case within 7 days. Documentation may include:
 - a) *Client statements*
 - b) *Medical records and results from medical/mental health assessments*
 - c) *Police reports and criminal records*
 - d) *Financial records (such as bank statements, credit card bills, stock reports, and wire transfers)*
 - e) *Statements from collateral contacts*
 - f) *Photographs and recordings (See WIC 15634(a), and guidelines below), and*
 - g) *Legal documents (such as POAs, wills, trusts, and deeds) (P. 69 of guidelines)*
- 6) Make a determination based on the findings
- 7) If applicable, the results of the investigation (reported on the SOC 341/342) should be sent to law enforcement
 - a) If there is an allegation of abuse, the report should be sent within 24 hours

Once it is determined protective services are to be provided, a case assessment must be conducted within 21 days of the initial in-person contact with the client. Based on this assessment, a service plan must be completed within 30 calendar days from the initial in-person contact.

DISPOSITIONS

There is no established state standard of evidence. However, there are established types of evidence for inter-agency consistency in determining findings. These include:

- *Client statement*
- *SW direct observations*
- *Physical evidence, e.g., injuries, cluttered home, no utility service, etc.*
- *Corroborating evidence, e.g., witnesses, physician records, documents, etc.*
- *Circumstantial evidence*
- *Unobserved/3rd party suspicions*
- *History, e.g., prior APS reports, police records, incidents with same perpetrator, patterns of covering up abusive situations, etc.*

Based on the extant materials, no information is available on APS program communicating the results of APS investigations.

There are 3 dispositions included in an APS case record:

- 1) Findings—confirmed, inconclusive, or unfounded
- 2) Actions taken on the case—what steps were taken to remedy the abuse
- 3) Reason(s) for closure

Based on the extant materials, no information is available on legal consequences for substantiated perpetrators in APS investigations. APS does not have a perpetrator registry in California.

POST-INVESTIGATIVE SERVICES

AUTHORITY

APS agencies provide services to alleged victims but based on the extant materials it is not clear if the status of the investigation must be confirmed. Services may be provided on inconclusive cases.

Family members and perpetrators are generally not provided with services by APS.

The client may refuse or withdraw consent to the provision of any or all services at any time.

APS agencies may petition temporary conservatorship if they believe the elder or dependent adult is incapacitated and unable to give or deny to the consent of services.

APPROACH

The state APS Policy Manual states that:

The adult protective services program is not intended to interfere with the life style choices of elders or dependent adults, nor to protect those individuals from all the consequences of such choices.

For each person receiving adult protective services a written service plan shall be developed based upon the assessment. The service plan shall:

- *Be completed within 30 calendar days from the initial in-person contact;*
and
- *Provide for the safety of the client in the least restrictive environment.*

Each APS agency is expected to provide tangible and non-tangible support services to the extent resources are available.

The decision to close a case must be a joint decision between the APS worker and client. Reasons for closure include but are not limited to the client refuses or stops services, services are no longer needed, the client dies, or the client moves/cannot be contacted.

QUALITY ASSURANCE

Supervisors must document the approval of service plans within five working days of completion by the APS worker. Supervisors must also document and approve the written visitation plan. Every 90 days the client file must be reassessed to determine the continued need of APS. The supervisor has 5 days to review the case record and approve the continued need to keep the case open. If the case must remain open beyond 12 months, the second level supervisor must make the approval within 5 days of the reassessment.

According to the APS Manual,

The adult protective services agency shall develop and maintain a case record for each adult protective services client.

Each case record shall contain:

- *The SOC 341.*
- *All written assessments and reassessments as specified in Sections 33-525 and 33-560.*
- *The written service plan as specified in Section 33-535.*
- *Any written visitation plan prepared pursuant to Section 33-545.5.*
- *The chronological narrative of contacts made with, or on behalf of, the elder/dependent adult.*
- *Documentation of any refusal of services including, if known, the reasons for the refusal.*
- *Copies of all documents, relating to the client, that have been received or sent by the adult protective services agency.*
- *Case closure summary, as specified in Section 33-570.*
- *Documentation of all supervisory approvals, as specified in Sections 33-510.32, 33-535, 33-545, 33-560, and 33-570.*

The case record may also contain any other information or documents that the adult protective services agency believes are necessary to maintain a proper record of the client's case.

APS workers conduct service plan monitoring to evaluate the client's progress and determine if the current plan is meeting the client's needs sufficiently. The worker must conduct in-person monitoring every 30 calendar days.

Colorado

Name of Agency	Colorado Department of Human Services
Name of Program	Adult Protective Services
Data Sources	APS Rules, Effective April 1, 2018 NAMRS Agency Component Data FFY2020 Report APS Statute 2017

CONTEXT

ADMINISTRATION

The Adult Protective Services program is mandated by Title 26, Article 3.1 of the Colorado Revised Statutes. It is administered by the Colorado Department of Human Services, Office of Adult, Aging and Disability Services, Division of Aging and Adult Services. It is a state supervised, county-administered system that provides for the safety and protection of at-risk adults who are, or are suspected to be, victims of mistreatment or self-neglect.

SCOPE

Protective services are available to at-risk adults age 18 and older residing in the community or in a facility.

At-risk adult, pursuant to Section 26-3.1-101(1.5), C.R.S., means an individual eighteen years of age or older who is susceptible to mistreatment or self-neglect because the individual is unable to perform or obtain services necessary for his or her health, safety, or welfare, or lacks sufficient understanding or capacity to make or communicate responsible decisions concerning his or her person or affairs.

Facility means a medical or long-term care facility that provides 24-hour care and oversight for residents, and includes a group home, alternative care facility, state regional center, or state mental health facility.

A person is not considered at-risk because of a disability; however, training for working with people with disabilities is provided to staff.

Protective services are provided to at-risk adults:

- *Who need short term services due to a report of actual or suspected mistreatment or self-neglect; and/or,*

- *For whom the county department has been appointed guardian and/or conservator, or has been designated as representative payee; and/or,*
- *Who are residents of long term care facilities, such as nursing homes and assisted living residences, who must relocate due to the closure of the facility and:*
 - *The county department has been appointed guardian and/or conservator; or,*
 - *They are in need of protective services due to a lack of case management and/or assistance from any other reliable source.*
- *Without regard to income, resources, or lawful presence.*

APS investigates reports of exploitation (non-specific), caretaker neglect, physical abuse, self-neglect, sexual abuse, and harmful acts.

CONFIDENTIALITY

According to APS statute:

Except as provided in statute, reports of the mistreatment or self-neglect of an at-risk adult and subsequent cases resulting from the reports is confidential and is not public information.

Disclosure of report and subsequent case information may be released without a court order only when:

- *A criminal investigation into an allegation of mistreatment is being conducted, when a review of death by a coroner is being conducted when the death is suspected to be related to mistreatment, or when a criminal complaint, information, or indictment is filed and the report and case information is relevant to the investigation, death review, complaint, or indictment.*
- *There is a death of a suspected at-risk adult from mistreatment or self-neglect and a law enforcement agency files a formal charge or a grand jury issues an indictment in connection with death.*
- *The disclosure is necessary for the coordination of multiple agencies' joint investigation of a report or for the provision of protection services to an at-risk adult.*
- *The disclosure is necessary for purposes of an audit of a county department of human or social services pursuant to Section 26-1-114.5, C.R.S.*

- *The disclosure is made for purposes of the appeals process relating to a substantiated case of mistreatment of an at-risk adult pursuant to Section 26-3.1-108(2), C.R.S. This subsection is in addition to and not in lieu of other federal and state laws concerning protected confidential information.*
- *The disclosure is made by the State Department to an employer, or to a person or entity conducting employee screening on behalf of the employer, as part of a CAPS check pursuant to Section 26-3.1-111, C.R.S. or by a county department pursuant to Section 26-3.1-107, C.R.S.*
- *The disclosure is made to an at-risk adult, or if the at-risk adult is otherwise incompetent at the time of the request, to the guardian or guardian ad litem for the at-risk adult, with the following conditions:*
 - *The disclosure shall not be made until after investigation is complete; and,*
 - *The disclosure shall not include any identifying information related to the reporting party or any other appropriate persons. If the guardian is a substantiated perpetrator in a case of mistreatment of an at-risk adult, the disclosure must not be made without authorization by the court for good cause.*
- *The disclosure is made to a county department that assesses or provides protective services for children when the information is necessary to adequately assess for safety and risk or to provide protective services for a child. A county department that assesses or provides protective services for at-risk adults is similarly permitted to access information from a county department that assesses or provides protective services for children pursuant to Section 19-1-307(2)(X), C.R.S. The provisions of this Subsection 30.250, B, 8 are in addition to and not in lieu of other federal and state laws concerning protected or confidential information.*
- *The disclosure is made to an employer required to request a CAPS check pursuant to Section 26-3.1-111 or to the State Department agency that oversees the employer when the information is necessary to ensure the safety of other at-risk adults under the care of the employer. The information must be the minimum information necessary to ensure the safety of other at-risk adults under the care of the employer or oversight of the State Department agency.*

GUIDING PRINCIPLES

The Colorado APS program has identified the following APS principles:

The client's consent is not required for the county department to investigate or assess allegations of mistreatment or self-neglect.

The final decision as to acceptance of protective services shall rest with the client unless the client has been adjudicated incapacitated by the court or as outlined in Section 30.600. It shall not be construed that a person is being mistreated or is self-neglecting for the sole reason that he or she is being furnished or is relying upon treatment or practices in accordance with the tenets and practices of that person's recognized church or religious denomination.

Protective services provided to and other services arranged for the client shall constitute the least restrictive intervention and be those services provided for the shortest duration and to the minimum extent necessary to meet the needs of the client.

INTAKE

REPORTERS

According to state law, the following persons are urged to file a report within twenty-four hours if they have reasonable cause to believe an at-risk adult has been mistreated or is self-neglecting and is at imminent risk of mistreatment or self-neglect:

- *Any person providing health care or health-care-related services including general medical, surgical, or nursing services; medical, surgical, or nursing specialty services; dental services; vision services; pharmacy services; chiropractic services; or physical, occupational, musical, or other therapies;*
- *Hospital and long-term care facility personnel engaged in the admission, care, or treatment of patients;*
- *First responders, including emergency medical service providers, fire protection personnel, law enforcement officers, and persons employed by, contracting with, or volunteering with any law enforcement agency, including victim advocates;*
- *Code Enforcement officers;*
- *Medical examiners and coroners;*
- *Veterinarians;*
- *Psychologists, addiction counselors, professional counselors, marriage and family therapists, and registered psychotherapists, as those persons are defined in article 43 of title 12, C.R.S.;*
- *Social workers, as defined in part 4 of article 43 of title 12, C.R.S.;*
- *Staff of community centered boards;*
- *Staff, consultants, or independent contractors of service agencies, as defined in section 25.5-10-202 (34), C.R.S.;*

- *Staff or consultants for a licensed or unlicensed, certified or uncertified, care facility, agency, home, or governing board, including but not limited to long-term care facilities, home care agencies, or home health providers;*
- *Caretakers, staff members, employees of, or consultants for, a home care placement agency, as defined in section 25-27.5-102 (5), C.R.S.;*
- *Persons performing case management or assistant services for at-risk adults;*
- *Staff of county departments of human or social services;*
- *Staff of the state departments of human services, public health and environment, or health care policy and financing;*
- *Staff of senior congregate centers or senior research or outreach organizations;*
- *Staff, and staff of contracted providers, of area agencies on aging, except the long-term care ombudsmen;*
- *Employees, contractors, and volunteers operating specialized transportation services for at-risk adults;*
- *Landlords and staff of housing and housing authority agencies for at-risk adults;*
- *Court-appointed guardians and conservators;*
- *Personnel at schools serving persons in preschool through twelfth grade;*
- *Clergy members; except that the reporting requirement described in paragraph (a) of this subsection (1) does not apply to a person who acquires reasonable cause to believe that an at-risk adult has been mistreated or has been exploited or is at imminent risk of mistreatment or exploitation during a communication about which the person may not be examined as a witness pursuant to section 13-90-107 (1) (c), C.R.S., unless the person also acquires such reasonable cause from a source other than such communication; and,*
- *Persons working in financial services industries, including banks, savings and loan associations, credit unions, and other lending or financial institutions; accountants; mortgage brokers; life insurance agents; and financial planners.*

In addition to those named as urged to report, any other person may report suspected mistreatment or self-neglect.

The reporter's identity may only be disclosed when authorized by a court for a good cause, when the reporting party has given written consent, or when sharing a report of mistreatment with law enforcement per, 26-3.1-102, (3)

PRIORITIES

APS has established two response priority levels:

1. Emergency—When factors present indicate the client is in clear and immediate danger or urgent and significant risk of harm due to the severity of the mistreatment or self-neglect, or due to the vulnerability or physical frailty of the client.
 - a. If appropriate, call 911
 - b. As soon as possible (within 24 hours), attempt to make a face-to-face visit with the client
2. Non-emergency—When the report and subsequent supervisory review and/or RED team process indicate the client is not in immediate danger or urgent risk of harm but mistreatment or self-neglect is present or likely present.
 - a. Attempt to make a face-to-face visit within 3 working days after the receipt of the report.

INVESTIGATION

AUTHORITY

APS has the authority to conduct face-to-face interviews with victims, collect evidence and document with photographs or other means, and conduct the investigation jointly with law enforcement or other agencies that have federal or state authority to investigate mistreatment, when necessary.

A client may refuse an investigation; however, the investigation will continue by gathering evidence and conducting interviews with collateral contacts. It is not necessary to seek the client’s consent to conduct these investigatory activities.

After a baseline assessment is conducted and a client is determined to be in immediate danger, the county will immediately intervene by notifying the appropriate emergency responders.

Clients that are suspected to lack capacity to make decisions, are at risk for harm and refuse to consent to services may receive involuntary intervention. Such cases are staffed with a supervisor and/or county attorney. A variety of services can be coordinated with the “responsible agency” for such services and can include, but are not limited to, emergency hospitalization, mental health “hold,” emergency guardianship, alcohol or drug treatment involuntary commitment, and emergency protection orders.

CASE INITIATION

The Colorado Adult Protective Services data system (CAPS) guides the required information necessary to make a report.

APS workers must attempt to make a face-to-face visit with the client as soon as possible (within 24 hours) in emergency cases. In non-emergency cases, the worker must attempt a face-to-face visit within 3 working days after the receipt of the report.

APS is required to initiate an investigation if the report contains an allegation of mistreatment (abuse, neglect, exploitation, harmful act) or self-neglect AND the adult meets (or likely meets) the definition of at-risk adult.

Colorado does not notify the adult, collaterals, or the alleged perp prior to initiating an investigation. APS will notify law enforcement or another agency with investigative authority if a joint investigation is requested.

CONDUCTING INVESTIGATION

According to program rule:

The investigation shall include, but may not be limited to:

- *Determining the need for protective services. If the client is in clear and immediate danger, the county shall intervene immediately by notifying the proper emergency responders.*
- *Determining if the investigation should be conducted jointly with another entity.*
- *Make reasonable efforts to conduct interviews, as outlined below. The interviews must address the specific allegations identified in the report and any new mistreatment or self-neglect that may be identified during the assessment or investigation. If an interview cannot be conducted for good cause, the attempts and the cause shall be documented.*
 - *An in-person interview with the client, unannounced and in private, whenever possible, and if not unannounced and/or in private, the reason shall be documented.*
 - *Ongoing interviews with the client to complete the investigation and assessment.*
 - *Interviews with collateral contacts.*
 - *Interviews with the alleged perpetrator(s), with or without law enforcement*
 - *Collecting evidence and documenting with photographs or other means, when appropriate.*
- *Making a finding regarding each allegation and alleged perpetrator, including the severity level of the mistreatment when there is a substantiated finding. A severity level shall not be assigned to a substantiated self-neglect allegation. Determining whether there are additional mistreatment or self-neglect concerns not reported in the initial allegations If there are additional concerns the county department shall enter the mistreatment and alleged perpetrator or self-neglect into the case, investigate, and make a finding, including the severity level of*

the mistreatment when there is a substantiated finding. A severity level shall not be assigned to a substantiated self-neglect allegation.

- *Supervisory review of all findings and approval only when the county department has completed a thorough investigation and the evidence justifies the findings. Notifying law enforcement when criminal activity is suspected.*
- *Each employer required to request a pre-employment check of the APS “registry” must provide access to the county department to conduct an investigation into an allegation of mistreatment. Access includes the ability to request interviews with relevant persons and to obtain relevant documents and other evidence.*
- *Entrance to the employer’s premises as necessary to complete a thorough investigation. At the time of entry, county department staff must identify themselves and the purpose of the investigation to the person in charge of the entity.*
- *Attorneys and their staff who are providing legal assistance pursuant to a contract with an area agency on aging, and the long-term care ombudsman are not subject to the requirements in this Section 30.520.B.*

The county department shall complete the investigation within 60 calendar days of the receipt of the report. When allegations are received or identified after the initial report, the county department shall complete the investigation into the additional allegation(s) within sixty (60) days of the receipt or identification of the additional mistreatment or self-neglect. For all investigations the county department shall ensure that documentation of the investigation occurs in CAPS throughout the investigation process, as follows:

- *All interviews, contacts, or attempted contacts with the client, collaterals, alleged perpetrators, and other contacts during the investigation shall be documented within fourteen (14) calendar days of receipt of the information.*
- *All evidence collected during the investigation shall be scanned and attached to the case by the conclusion of the investigation. Findings for the allegations and alleged perpetrator shall be documented no later than sixty (60) calendar days from receipt of the report, including supervisor review and approval of the findings. If the county is unable to complete the investigation timely for good cause, the cause shall be documented in CAPS. Beginning July 1, 2018 all substantiated perpetrators shall be provided notice of the substantiation and their appeal rights.*

Colorado uses a comprehensive, validated strengths and needs assessment that looks at risk and safety over 72 risk factors in seven major categories (ADLs/IADLs, cognition, behavioral concerns, medical, home/residence, financial circumstances, mistreatment). The assessment is completed at baseline (initial intervention) and at case closure to measure safety and risk outcomes as a result of APS intervention.

State law requires certain brokers/dealers to provide financial records to APS when exploitation is suspected.

DISPOSITIONS

The standard of evidence for substantiating a case is preponderance of the evidence.

The APS Program refers possible criminal activities to law enforcement and/or the district attorney for criminal investigation and possible prosecution.

Per confidentiality laws, investigation results may not be shared with any entity, except as provided for joint investigations, sharing with law enforcement or the coroner as part of a mistreatment investigation or death review where mistreatment is suspected, as part of due process for substantiated perpetrators, and to provide very limited information to employers during a perpetrator registry check for applicants (date of finding, county investigating, mistreatment type, and severity level).

POST-INVESTIGATIVE SERVICES

AUTHORITY

A case plan is not developed if there are no identified needs or the adult is not “at-risk” by definition, or when a client has passed away prior to the development of a case plan. According to program rules the case plan shall include:

- *The service needs necessary to successfully achieve safety improvement for any identified risk factors, characterized with a significant impact, for which there is no adequate mitigating service in place at the time of APS initial response;*
- *The person responsible for arranging each identified service need, and if other than the county department, document the individual’s agreement to arrange the service need; and,*
- *The status of all identified service needs.*

Clients can refuse services if they exhibit the capacity to do so. If a client is suspected to lack decision making capabilities and is deemed at risk for harm, the county reserves the right to intervene when appropriate. According to program rules, this may include the following:

- *Gaining access to the client with assistance from law enforcement, family, or another person the client trusts;*
- *Emergency hospitalization;*
- *Coordinating with municipal authorities to arrange a home clean up, when there is a clear biohazard;*
- *Mental health hold, per Title 27, Article 65, C.R.S.;*
- *Coordinating with family members, law enforcement, or financial institutions to freeze client bank accounts to prevent further loss of assets;*
- *Emergency protection order, per Title 13, Article 14, C.R.S.;*
- *Authorization of a Medical Proxy Decision Maker, per Title 15, Article 18.5, C.R.S.;*
- *Requesting a judicial review of a fiduciary, per Title 15, Article 10, Part 5, C.R.S., and Title 15, Article 14, Part 7, C.R.S.;*
- *Contacting the Social Security Administration or other pension administrator to secure a representative payee;*
- *Petitioning the court for emergency guardianship and/or special conservatorship, per Title 15 Article 14, Parts 3 and 4, C.R.S., or,*
- *Alcohol and drug involuntary commitment, per Title 27, Article 81, Part 112 and Title 27, Article 82, Part 108.*
- *Recommending a delayed disbursement of finances from the client's broker-dealer pursuant to Title 11, Article 51, C.R.S.*

CO provides assistance such as education, support, respite care, etc., for caregivers who are also family members and/or perpetrators.

APPROACH

Protective services provided must constitute the least restrictive intervention and provided for the shortest duration to the minimum extent necessary to meet the client's needs.

If services are unavailable through other government programs or local service providers and the APS client is unable to pay for the services, the county shall utilize APS client services funds, within available appropriations, to purchase emergency, short-term, or one-time goods and services for the APS client that are necessary for the client's health, safety or welfare. For example, a neuro-psych evaluation or emergency housing.

Ongoing, face-to-face client contact must be made at least once every month, not to exceed 35 calendar days from the last in-person visit for as long as the case is open. According to program rules:

A decision to close a case shall be made for any or all of the following reasons:

- *After investigation and assessment, the client does not meet the definition of an at-risk adult.*
- *After investigation and assessment, there are no identified needs or all of the client's needs were met prior to the report to the county department.*
- *The investigation and/or assessment identified needs but the client is competent to make decisions and refuses services.*
- *If, after repeated and documented efforts, the whereabouts of the client cannot be established or the client refuses contact.*
- *The client no longer needs protective services.*
- *Service goals are completed.*
- *Repeated efforts at service delivery have proven to be ineffective and no additional alternatives exist.*
- *Critical services necessary to improve safety are unavailable in the community or to the client.*
- *The client moved out of the state.*
- *The client has been sentenced to incarceration for longer than thirty (30) calendar days.*
- *The client died.*

QUALITY ASSURANCE

Program rules provide that:

The direct supervisor or lead worker shall, at a minimum:

- *Receive reports of mistreatment and self-neglect as outlined in Section 30.400.*
- *Evaluate the report, determine the response, and develop a plan for caseworker safety, as outlined in Sections 30.400. At the option of the county, the county department may use the RED Team process.*
- *Staff open cases of each caseworker monthly to ensure cases meet program requirements related to the provision of protective services.*
- *Review and provide final approval of all findings and ensure timely notification is made to perpetrators who have substantiated findings made against them in APS cases.*
- *Review cases to ensure:*
 - *Timely casework;*
 - *Investigation, assessment, and case planning were thorough and complete;*

- *Case closure, if applicable, was appropriate; and,*
- *Documentation in CAPS is complete and accurate.*
- *Review of cases shall be completed using one of two approved methods:*
 - *Method One: using the case review score card in CAPS, each month review not less than fifteen percent (15%) of each caseworker's cases that were open and/or closed during the month; or,*
 - *Method Two: approve every county APS case at key junctures of the APS casework process utilizing the automated approval process in CAPS, as follows:*
 - *Upon completion of the initial investigation, assessment, and case plan;*
 - *Upon completion of a six-month reassessment for cases open longer than six months; and,*
 - *At case closure.*
- *Assess APS caseworkers' professional development needs and provide opportunities for training.*
- *Respond to APS reports or have a contingency plan to respond within assigned time frames, including emergencies, and to provide protective services when no caseworker is available.*

The county department shall thoroughly document all Adult Protective Services (APS) reports and case information in CAPS. There shall be no parallel paper or electronic system used to enter APS documentation. Documentation shall include all aspects of the APS case, including:

- *Initial report;*
- *Investigation;*
- *Assessment;*
- *Case plan;*
- *Contact records for the client, alleged perpetrator, reporter, and all collaterals and supports;*
- *Ongoing case notes;*
- *Case closure; and,*
- *Any other processes related to the case.*

All documents and evidence relevant to the investigation, assessment, and identification of needed services for the client shall be scanned into CAPS, to include:

- *A release of information form(s) signed by the client, when appropriate;*

- *A copy of a power of attorney, living will declaration, and/or other advance directive if the county department receives or discovers information that the client has one in place, except when:*
 - *The client has fiduciary authority in place but the client or the fiduciary refuses to provide copies of the document, the county department shall attempt to review the documents to determine the authority provided within.*
 - *If unable to obtain or review relevant documentation for good cause the county department shall document all attempts to obtain a copy and review the document(s), and if able to review the document(s) shall document the authority provided.*
- *A copy of all associated documents if the county department is appointed guardian, conservator, or representative payee or receives or discovers information that the client has one in place, the county department shall scan and upload documentation as follows:*
 - *All court documents, court reports, Social Security Administration appointments, correspondence, and other documents related to the county-held guardianship, conservatorship, or representative payeeship shall be scanned and uploaded to CAPS.*
 - *A copy of the court order or representative payee assignment for non-county held guardianship, conservatorship, or representative payeeship shall be scanned and uploaded to CAPS, except when:*
 - *The client has a guardianship, conservatorship, or representative payeeship in place but the client or the fiduciary refuses to provide copies of the document, the county department shall attempt to review the documents to determine the authority provided within.*
- *If unable to obtain or review relevant documentation for good cause the county department shall document all attempts to obtain a copy and review the document(s), and if able to review the document(s) shall document the authority provided within. Other documentation and evidence collected during the investigation and assessment, such as medical reports, results of psychiatric evaluations, photographic documentation, etc.*

All documentation pertaining to APS reports and cases, including interview and case notes, evidence gathered, such as photos, medical records, and bank

statements shall be kept in a secure location until documented in CAPS and then shall be destroyed.

- *Hardcopy and electronic APS files created prior to July 1, 2014 shall be kept in a secured location.*
- *All APS files created July 1, 2014 or later shall be documented in CAPS and the file/notes destroyed.*
- *Original legal documents such as guardianship, representative payeeship, birth certificates, or tax documents may be retained in a hardcopy file, in addition to CAPS, that is in a secured location.*

The county department shall use CAPS to document all other APS program activities, including Adult Protection team activities, APS staff qualifications, FTE, new worker and continuing education received, cooperative agreements, and other activities required by rule.

Case records shall be retained for a minimum of three (3) years, plus the current year, after the date of case closure and forever for substantiated perpetrators.

The county department shall be subject to routine quality control and program monitoring, to minimally include:

- *Targeted review of CAPS documentation;*
- *Review and analysis of data reports generated from CAPS;*
- *Case review;*
- *Targeted program review conducted via phone, email, or survey; and,*
- *Onsite program review.*

The focus of the monitoring shall be to identify:

- *Compliance with program statute and rules;*
- *Best practices that can be shared with other county departments; and,*
- *Training needs.*

Connecticut

Name of Agency	Connecticut Department of Social Services
Name of Program	Protective Services for the Elderly
Data Sources	Chapter 319dd- Protective Services for the Elderly Connecticut Protective Services for the Elderly Brochure NAMRS Agency Component Data FFY2016 Report Mandatory Reporting of Elder Abuse Protective Services for the Elderly

CONTEXT

Administration

CHAPTER 319dd of the General Statutes of Connecticut establishes the Protective Services for the Elderly program. It is administered by the Division of Social Work Services within the Connecticut Department of Social Services and is a state-run program. It is designed to safeguard people age 60 and older from physical, mental, and emotional abuse, neglect, abandonment and/or financial abuse and exploitation. The Department's Social Workers devise a plan of care aimed at enhancing an elder's safety while preserving the person's right of self-determination. Staff may help the person to remain in the living situation he or she prefers, safeguard legal rights, prevent bodily harm or injury, determine service needs and then mobilize resources to provide necessary services.

SCOPE

To be eligible for protective services, the client must be age 60 or older, a resident of the state, and meet the criteria of abuse, abandonment, exploitation, or neglect. This includes reports of abuse for eligible adults residing in long-term care facilities.

The program investigates abandonment, emotional abuse, exploitation (non-specific), neglect, physical abuse, self-neglect, and sexual abuse. The definitions may be found in appendix B.

CONFIDENTIALITY

The original report and the investigative report are kept confidential and may only be disclosed with the written authorization of the elderly person or their legal representative. The commissioner may disclose the information without notice if he/she determines it is necessary

to assure the health, safety and welfare of an elderly person. In this event, the information may be released:

1. *to multidisciplinary teams that may be formed to assist the department in investigation, evaluation or treatment of elderly abuse and neglect cases*
2. *to law enforcement officials*
3. *in proceedings authorized under this chapter or in any action the commissioner deems necessary to assure the health, safety and welfare of any elderly person. (P. 5-6 of Chapter 319dd)*

Reporters are kept confidential unless written permission is attained or the release of information to law enforcement officials pursuant to a court order requiring the disclosure.

GUIDING PRINCIPLES

As defined in the Protective Services for the Elderly Brochure,

The underlying goals behind the social worker's efforts are:

- *preserving the elderly person's right of self-determination*
- *helping him or her remain in the preferred living situation, whenever possible*
- *preventing injury or bodily harm*
- *safeguarding legal rights*

Based on the extant materials, no information is available on policies to ensure high standards of integrity.

INTAKE

REPORTERS

The law requires certain professionals to report suspected abuse, neglect, abandonment, or exploitation of the elderly to the Department of Social Services (DSS). They must also report to DSS if they suspect an elderly person is in need of protective services. Reports must be made to DSS within five days except if the incident that is the subject of the report occurs in a long-term care facility, in which case it must be reported within 72 hours. Mandated reporters include:

- Licensed physicians and surgeons
- Resident physicians and interns at any hospital in the state
- Registered and licensed practical nurses
- Nursing home administrators, staff, and anyone paid to care for a nursing home patient
- Nurse's aides or orderlies working in a nursing home

- Patient advocates
- Medical examiners
- Dentists
- Optometrists
- Chiropractors
- Podiatrists
- Social workers
- Clergymen
- Police officers
- Pharmacists
- Psychologists
- Physical therapists

PRIORITIES

Based on the extant materials, no information is available on established priority levels.

INVESTIGATION

AUTHORITY

The law provides for broad investigatory authority.

In investigating a report under this subsection, the commissioner may subpoena witnesses, take testimony under oath and compel the production of any necessary and relevant documents necessary to investigate the allegations of abuse, neglect, exploitation or abandonment. (P. 5 of 319dd)

In conducting the necessary investigatory activities, “the Department of Social Services may request the assistance of the staffs and resources of all appropriate state departments, agencies and commissions and local health directors, and may utilize any other public or private agencies, groups or individuals who are appropriate and who may be available.”

If an adult refuses an investigation, a petition may be filed with the Probate Court for an order to conduct an assessment when it is believed the client needs protective services. This order may occur without prior notice and authorize the commissioner to conduct the assessment in the accompaniment of a law enforcement official.

A petition may be filed with the Probate Court for appointment of a conservator for the elderly person if the adult lacks the capacity to consent to reasonable and necessary protective services.

CASE INITIATION

A report must contain the name and address of the elderly person, information regarding the maltreatment type, and any other information that may be necessary or helpful in an investigation. The agency has no more than 5 calendar days to initiate the investigation of a report.

Based on the extant materials, no information is available regarding required notification to initiate a case.

CONDUCTING THE INVESTIGATION

State law gives the agency authority to access records and the alleged victim as well as remedies if access to either is denied.

A covered entity, as defined in 45 CFR 160.103, shall disclose to the commissioner all relevant protected health information and other information about an elderly person that is necessary for the commissioner to investigate an allegation of abuse, neglect, exploitation or abandonment, provided the covered entity shall provide notice to such elderly person in accordance with subsection (c) of 45 CFR 164.512. If the commissioner has reasonable cause to believe that the elderly person is being abused, neglected, exploited or abandoned, the commissioner may issue a subpoena to obtain protected health information or other information necessary to investigate the allegations of abuse, neglect, exploitation or abandonment. The commissioner may request the Attorney General to petition the Superior Court for such order as may be appropriate to enforce the provisions of this section. The commissioner's authority shall include, but shall not be limited to, the right to initiate or otherwise take those actions necessary to assure the health, safety and welfare of any elderly person.

An investigation will include the following:

- An in person visit with the subject of the report
- Consultation with other individuals informed of the facts of the case
- A solo interview with the elderly adult

The investigation must be completed within 45 days.

DISPOSITIONS

The standard of evidence for substantiating an allegation of maltreatment is preponderance of the evidence.

Upon completion of the investigation, the commissioner shall prepare written findings that shall include recommended action and a determination of whether protective services are needed. Not later than forty-five days after completion of the investigation, the commissioner shall disclose, in general terms, the result of the investigation to the person or persons who reported the suspected abuse, neglect, exploitation or abandonment, provided:

- *The person who made such report is legally mandated to make such report*
- *the information is not otherwise privileged or confidential under state or federal law*
- *the names of the witnesses or other persons interviewed are kept confidential*
- *the names of the person or persons suspected to be responsible for the abuse, neglect, exploitation or abandonment are not disclosed unless such person or persons have been arrested as a result of the investigation.*

If an investigation determines a caregiver is the perpetrator, the information in the investigation is referred in writing to the Chief State's Attorney or the Chief State's Attorney's designee who will determine if criminal proceedings need to be initiated.

Based on the extant materials, no information is available regarding the categories of the dispositions.

POST-INVESTIGATIVE SERVICES

AUTHORITY

Protective services may be provided to the elderly person.

If it is determined that an elderly person is in need of protective services, services shall be initiated, provided the elderly person consents. If the elderly person fails to consent and the commissioner has reason to believe that such elderly person is incapable of managing his personal or financial affairs, the commissioner shall provide protective services to the extent possible and may apply to Probate Court for the appointment of a conservator of person or estate, as appropriate.

Services include:

- Supportive counseling
- Adult companion
- Adult day care
- Homemaker, housekeeper or chore-person
- Meals-on-wheels

- Emergency response system
- Emergency placement, if appropriate

Based on the extant materials, no information is available on services available to family members or perpetrators.

APPROACH

The state purchases services for clients who are otherwise incapable of paying for such needed services.

The Department's Social Workers devise a plan of care aimed at enhancing an elder's safety while preserving the person's right of self-determination. Staff may help the person to remain in the living situation he or she prefers, safeguard legal rights, prevent bodily harm or injury, determine service needs and then mobilize resources to provide necessary services.

Cases for which protective services are provided are kept open for the duration the client is receiving protective services. The case is reviewed every 90 days to determine whether continuation of or modification of the services provided is necessary.

QUALITY ASSURANCE

Aggregate data is reported annually to the General Assembly. State law also requires specific training for Alzheimer's and dementia symptoms.

Not later than July 1, 2014, and annually thereafter, the Commissioner of Social Services, or the commissioner's designee, in accordance with the provisions of section 114a, shall submit a report to the joint standing committees of the General Assembly having cognizance of matters relating to aging, human services and public health, detailing: (1) The number of complaints involving abuse or neglect of elderly persons received in the previous calendar year in the categories of (A) physical abuse, (B) mental abuse, (C) self-neglect, (D) neglect by others, and (E) financial exploitation; (2) the disposition of complaints; and (3) whether and by how much complaints per category have increased or decreased from the previous year.

The Commissioner of Social Services shall ensure that all employees assigned to the Department of Social Service's protective services for the elderly program who directly interact with elderly persons receive annual training in Alzheimer's disease and dementia symptoms and care.

Based on the extant materials, no information is available on the role of the supervisor or quality assurance activities. Additionally, the state retains files for clients which include the original report and the investigation report. It is not specified how the long file is retained.

Delaware

Name of Agency	Department of Health and Social Services
Name of Program	Adult Protective Services
Data Sources	NAMRS Agency Component Data FFY2016 Report Title 31: Chapter 39. Adult Protective Services (Delaware Code Online)

CONTEXT

ADMINISTRATION

The Adult Protective Services (APS) program, established by Title 31, Chapter 39 of the Delaware Code, is a state-run program administered by Delaware’s Department of Health and Social Services. The APS program responds to cases of suspected abuse, neglect, or exploitation of impaired adults. The program serves individuals who are 18 years old or over, who have a physical or mental impairment, and who are not living in a long-term care facility. The APS program is staffed by trained social workers who provide assistance.

SCOPE

The APS program investigates persons living in the community 18 years of age or over who, because of physical or mental disability, is substantially impaired in the ability to provide adequately for the person’s own care and custody. The state recognizes the need to provide services to those adult citizens of the state who may be subject to “psychological or physical injury or exploitation because of physical or mental disability, impairment, illness or condition or other causes which render them incapable of providing for their basic daily living needs.”

APS provides a system of services for impaired adults designed to protect their health, safety and welfare. Services should be provided with the least possible restrictions and such restrictions may only be permitted when consistent with proven need for services.

Reports of emotional abuse, exploitation (non-specific), financial abuse, neglect, physical abuse, and sexual abuse are investigated by department staff. Definitions of these categories are provided in appendix B.

CONFIDENTIALITY

All APS records and information are confidential. Information may be disclosed for purposes directly connected with APS administration, or when the identity of the recipient or recipients of such services is not revealed by the disclosure, for example in the case of disclosure of statistics or other such summary information.

Based on the extant materials, no information is available on the confidentiality of the reporter.

GUIDING PRINCIPLES

The APS program operates according to the following guidelines and practices.

Protective services include, but are not limited to:

- *Preliminary investigation and evaluation of reports of adults needing protective services, including a comprehensive social evaluation.*
- *Medical and psychiatric evaluation, if necessary.*
- *Social casework for the purpose of planning and providing services needed by the adult client.*
- *Maintenance of the person in the person's own home through provision of home health care, homemaker services, day care and chore services.*
- *Assistance in obtaining out-of-home services such as respite care, emergency housing and placement in a rest-residential home.*
- *Referral for legal assistance, information on establishing power of attorney or representative payee arrangements and on guardianship of person or property; referral to the Office of Public Guardian; referral for medical assistance.*
- *Transportation to and from service providers, if necessary.*
- *Other services consistent with this chapter.*

Based on the extant materials, no information is available on whether the state APS program has a defined set of ethical principles or policies related to program integrity.

INTAKE

REPORTERS

State law mandates that any person having reasonable cause to believe that an adult person is impaired or incapacitated and needs protective services shall report such information to the Department of Health and Social Services.

Based on the extant materials, no information is available on whether APS protects the identity of reporters.

PRIORITIES

State policy provides guidelines on priority level for reports of abuse depending on maltreatment type. Reports of life threatening neglect require an immediate response and

physical/sexual abuse requires an immediate response or up to 24 hours. Neglect and financial exploitation require a response up to 5 business days.

INVESTIGATION

AUTHORITY

State policy provides authority to conduct several investigatory and service related activities.

In order to provide the services listed in subsection (b) of this section, the following services will be performed by the adult protective services unit:

- *Informing and educating the citizens of the State on the needs of protective service clients and the services available to them.*
- *Accepting and processing all referrals on, or applications from, adults in need of protective services.*
- *Home visits to all clients, if necessary.*
- *Counseling with clients to assist them to accept needed services voluntarily.*
- *Referring clients to other service-providing agencies, arranging for visits and following up to determine that needed services were delivered by those agencies.*
- *Maintaining case records and statistics.*
- *Contracting with existing public and private agencies and professionals for the provision of services not directly provided by the Department.*
- *Provision for shelter of those persons in temporary need of such protection*
- *Provisions for emergency food, clothing, fuel allotments and funds for persons determined to be in need of such services.*
- *Arranging for the development of a system, in cooperation with public and private community agencies, to insure that emergencies requiring adult protection services will be handled on a coordinated basis.*

State policy regarding involuntary protective services articulates that if a person lacking capacity to consent to receive protective services is in need, these services may be given by a police officer, the Attorney General or a Deputy Attorney General of this State, an emergency order of the Court, by the appointment of a guardian, and/or by a social service worker on probable cause of death or immediate and irreparable physical injury.

The Court shall order only that intervention which it finds to be the least restrictive of the person's liberty and rights, while consistent with the person's

welfare and safety. The basis for such order and finding shall be stated in the opinion by the Court.

Emergency orders for protective services operate under the following guidelines:

Upon petition by the Public Guardian or adult protective services unit of the Department of Health and Social Services, the Court of Chancery may issue an order authorizing the provision of protective services on an emergency basis to an adult person after finding on the record, based on a preponderance of the evidence that the person is impaired or incapacitated, an emergency exists, the person lacks the capacity to consent to receive protective services; no person authorized by law or Court order to give consent for the person is available and willing to consent to emergency services; and there are compelling reasons for ordering services.

In an emergency order, the Court is to consider:

- *Only such protective services as are necessary to remove the conditions creating the emergency shall be ordered; and the Court shall specifically designate the approved services in its order.*
- *Protective services authorized by an emergency order shall not include hospitalization or change of residence unless the Court specifically finds such action is necessary and gives specific approval for such action in its order.*
- *Protective services may be provided through an emergency order for a maximum of 90 days upon a showing to the Court that continuation of the original order is necessary to remove the emergency. During this period the person who is impaired may petition the Court to have the emergency order removed.*
- *In its order, the Court shall appoint the petitioner or another interested person other than the service provider as temporary guardian of the person of the person who is incapacitated. The temporary guardian shall assume converted by responsibility for the person's welfare and be granted therein authority to give consent for the person for the approved protective services until the expiration of the order.*
- *The issuance of an emergency order and the appointment of a temporary guardian shall not deprive the person of any rights except to the extent validly provided for in the order of appointment.*
- *To implement an emergency order, the Court may authorize forcible entry of the premises of the person for the purpose of rendering protective*

services or transporting the person to another location for such services. Such forcible entry may be authorized only after a showing to the Court that attempts to gain voluntary access to the premises have failed and forcible entry is necessary. The order of the Court shall include an order to the appropriate police department authorizing forcible entry.

Based on the extant materials, no information is available on whether a victim can refuse an investigation.

CASE INITIATION

Aging and Disabilities Resource Center intakes calls during normal State of Delaware business hours. After hours call when the State of Delaware is closed, are received 24/7 and processed the next business day by a contracted call center. To initiate the case, the APS worker should accept and process all referrals on, or applications from, adults in need of protective services. If needed, APS should conduct home visits to clients.

CONDUCTING INVESTIGATION

APS uses the Track Assessment Program (known as TAPP), developed specifically for the State of Delaware APS and other Department of Health and Social Services agencies as a systematic client assessment.

APS is authorized to access information from financial institutions. Such institutions must provide relevant records related to the suspected financial exploitation or attempted financial exploitation to the Department, Law Enforcement, or the prosecuting attorney's office at the request of APS. The information disclosed in these records include historical records as well as recent records of transactions or transaction that may comprise financial exploitation not to exceed 30 calendar days prior to the first transaction that was reported or 30 calendar days after the last transaction that was reported.

Based on the extant materials, no information is available on timeframes for completing the investigation.

DISPOSITIONS

There is no state standard of evidence for substantiating an allegation of maltreatment in an APS investigation defined by Delaware code; specific to APS law.

State policy regarding legal consequences for substantiated perpetrators includes:

- *(a) Any person who knowingly or recklessly abuses, neglects, exploits or mistreats an adult who is impaired shall be guilty of a class A misdemeanor.*

- *(b) Any person who knowingly or recklessly exploits an adult who is impaired by using the resources of an adult who is impaired shall be guilty of a class A misdemeanor where the value of the resources is less than \$500 and a class G felony where the value of the resources is \$500 or more but less than \$5,000. If the value of the resources is \$5,000 or more but less than \$10,000, the person shall be guilty of a class E felony. If the value of the resources is \$10,000 or more but less than \$50,000, the person shall be guilty of a class D felony and if the value of the resources is \$50,000 or more the person shall be guilty of a class C felony. Any subsequent conviction under this subsection shall be treated as a class C felony regardless of the amount of resources exploited.*
- *(c) Any person who knowingly or recklessly abuses, neglects, exploits or mistreats an adult who is impaired, and causes bodily harm, permanent disfigurement or permanent disability shall be guilty of a class D felony. Where the abuse, mistreatment or neglect results in death, such person shall be guilty of a class A felony.”*

Based on the extant materials, no information is available on whether the APS program communicates the results of the APS investigation nor is there information on the categories and definitions for the dispositions of APS investigations.

POST-INVESTIGATIVE SERVICES

AUTHORITY

Any qualified person may receive adult protective services, provided the person requests or affirmatively consents to receive these services. If the person withdraws or refuses consent, the service shall not be provided unless by Court order.

Based on the extant materials, no information is available on whether APS provides services to family members and perpetrators.

APPROACH

Protective services should be provided in a manner that protects the adult’s right to the least restrictive environment.

The cost of these services provided by the State are accepted by the client insofar as the client is able to pay for them with their own resources. The Department determines the client’s ability to pay from a fee schedule and income criteria. To the extent that funds are available, the cost of protective services not paid from the resources of the client shall be debited to the adult protective services budget.

Based on the extant materials, no information is available on state policy regarding timeliness of and other criteria for case closure.

QUALITY ASSURANCE

Based on the extant materials, no information is available on state policy regarding quality assurance.

District of Columbia

Name of Agency	Department of Human Services
Name of Program	Adult Protective Services
Data Sources	DC Karyn Barquin Adult Protective Services Self-Neglect Expansion Amendment Act of 2005 DC Adult Protective Services Act NAMRS Agency Component Data FFY2016 Report

CONTEXT

ADMINISTRATION

The District of Columbia (DC) Adult Protective Services program is established by DC Law 5-156; D.C. Official Code §§ 7-1901, *et seq and* administered by the Department of Human Services (DHS). APS investigates reports of alleged cases of abuse, neglect, exploitation, and self-neglect of vulnerable adults 18 years of age or older. APS provides protective services to reduce or eliminate the risk of abuse, neglect, self-neglect, and exploitation.

SCOPE

Adult Protective Services provides social services and crisis intervention to address the needs of abused, neglected, self-neglected, and exploited vulnerable adults (18 years of age and older).

Typically, APS staff do not investigate referrals in hospitals, or nursing homes. In such facility wide cases, APS refers cases to the appropriate agency or agencies such as the DC Long Term Care Ombudsman's Office or the DC Office on Aging.

"Adult in need of protective services" means an individual 18 years of age or older who:
(i) Is highly vulnerable to abuse, neglect, self-neglect, or exploitation because of a physical or mental impairment, self-neglect, or incapacity; (ii) Has recently been or is being abused, neglected, or exploited by another or meets the criteria for self-neglect; and (iii) Has no one willing and able to provide adequate protection.

APS investigates emotional abuse, financial exploitation, neglect, physical abuse, and self-neglect. Appendix B contains statutory definitions for abuse, exploitation, neglect, and self-neglect.

CONFIDENTIALITY

DHS may release investigative information to other public or private agencies only to the extent required to conduct an investigation, provide services, or petition the court for appointment of a guardian or conservatorship. The department may provide case information if directed by a court order, and can provide case information to the DC Attorney General, US Attorney, and the DC Metropolitan Police Department for investigation, prosecution, or civil or administrative enforcement action. Under specific circumstances, case information may be released to an adult in need of protective services or their legal representative, or a court-appointed representative of an adult in need of protective services.

DHS cannot release the identity and other personal information of reporters, witnesses, and interviewees, other than interviewees who are District government employees.

GUIDING PRINCIPLES

The “primary goals” of the DC APS program “are to mitigate immediate risks and promote the safety and well-being of vulnerable adults”.

Based on extant materials, there is no additional information available on APS program guiding principles

INTAKE

REPORTERS

Mandatory reporting is required for “a conservator, court-appointed mental retardation advocate, guardian, health-care administrator, licensed health professional, police officer, humane officer of any agency charged with the enforcement of animal cruelty laws, bank manager, financial manager, or social worker has as a result of his or her appointment, employment, or practice substantial cause to believe an adult is in need of protective services” due to abuse, neglect, or exploitation. Mandatory reporting does not apply to a social worker or licensed health professional who has as a client or patient, or is employed by a lawyer representing the alleged perpetrator. Those individuals exempt from mandatory reporting do not include a social worker or health professional who has as a client or patient victim of abuse or neglect. This is the case whether or not the victim objects to the reporting.

PRIORITIES

All referrals that are screened in become cases and must be investigated. Emergency cases must be reviewed within 24 hours. Typically, a social worker is sent out to investigate emergency cases as soon as the case is identified as possibly emergent. DC statute requires that in non-emergency cases the referred person is contacted within ten business days.

INVESTIGATION

AUTHORITY

DC statute provides APS guidance on investigatory activities. The scope of an APS investigation must involve activity that is “minimally necessary for an APS worker to determine whether an adult is in need of protective services, and, if so, what protective services are needed to remedy or substantially reduce the likelihood of abuse, neglect, self-neglect, or exploitation by others.”

When a report alleges the existence of an immediate, substantial risk of life-threatening harm to an adult in need of protective services, DHS must immediately notify the police and the police must conduct a prompt investigation to determine if police intervention is needed. APS and law enforcement investigations may be conducted jointly or separately. An APS worker may be accompanied by a police officer while conducting an initial or follow-up investigation, or otherwise providing protective services, when appropriate. If APS staff believe an alleged perpetrator is involved in civil or criminal crime activities, the information is referred to the DC Metropolitan Police Department.

If the adult in need of protective services objects to the investigation, and it does not appear that the objection is prompted by fear or intimidation instilled by another, the investigation is terminated unless it appears the alleged victim is incapacitated. If the objection to the investigation appears to be prompted by fear or intimidation instilled by another, or if another person on the premises refuses to allow the investigation to take place, DHS may request the Attorney General to petition for a court to prevent interference with the investigation.

When DHS files a petition in court alleging the existence of an immediate, substantial risk of life-threatening harm to an adult in need of protective services, the court may order statutorily specified actions to protect the client immediately and without a hearing by issuing an ex parte temporary protection order. An ex parte temporary protection order remains in effect for a period specified by the court until the court modifies or rescinds the order, or until a hearing is held on the petition for a provisional protection order.

Based on the extant materials, no additional information is available on state policy regarding involuntary interventions for APS clients such emergency protective orders.

CASE INITIATION

All APS referrals are funneled through one centralized telephone hotline number. Reports are taken by a licensed social worker, 24 hours a day, 7 days a week. Calls are recorded for continuity, emergency record and training purposes. The social worker compiles information from each referrer and enters the referred person's information into the DC-APS web based database called QuickBase. All referrals are reviewed by a Read-Evaluate-Decide (RED) Team of seasoned Social Workers (Supervisors) every Monday through Friday.

CONDUCTING INVESTIGATION

State policy regarding the timeframe for completing the investigation is unavailable; however, the timeframe to complete an investigation reported to NAMRS was 60 days.

Based on the extant materials, no information is available on what agencies are required to provide APS staff access to records or policies required for a systematic client assessment.

DISPOSITIONS

Based on information reported to NAMRS, the standard of evidence for an APS investigation is credible, reasonable, or probable cause.

If APS staff believe the perpetrator is involved in civil or criminal crime activities, the information is referred to the DC Metropolitan Police Department.

Based on the extant materials, no information is available on APS program communication of the results of APS investigations, on the categories and dispositions of APS investigations, nor on state policy regarding the consequences for substantiated perpetrators.

POST-INVESTIGATIVE SERVICES

AUTHORITY

Subject to the availability of resources, the Department may provide protective services if the adult needs protective services and affirmatively consents to the services offered. A person authorized by law or court order to consent to the provision of protective services on behalf of the adult may also provide consent for services. APS services are provided if reasonable access is not denied by a third person; and the adult in need of protective services, if not indigent and exigent circumstances do not dictate otherwise, agrees to reimburse the District or make reasonable contribution.

If an adult in need of protective services due to abuse, neglect, self-neglect, or exploitation objects to the provision of services and it does not manifestly appear to the APS worker that the adult is incapacitated or that the objection is prompted by fear or intimidation instilled by another, the adult shall be entitled to refuse those services and this right of refusal shall be fully respected. However, when an APS worker believes a self-neglecting person is incapacitated, the APS worker, the Department, or the Attorney General may provide protective services by petitioning the court for a guardianship or conservatorship appointment, provide protective services to the extent possible, and make referrals to public or private agencies.

Based on the extant materials, no information is available on whether APS provides services to family members and perpetrators.

APPROACH

When determining the appropriateness of services, DHS or other designated agency must first consider services “that encourage maximum self-determination and are least restrictive of personal liberty.”

Non-indigent adults in need of protective services and persons (other than the adult) legally responsible for providing services that have been provided or contracted for by DC, are expected to reimburse DC or make a reasonable contribution toward the cost of providing those services. However, no adult in need of protective services will be denied services because they are unable to pay for them, or because a person who is legally responsible for providing the services refuses to reimburse DC or contribute to their cost.

APS limits provision of protective services to a 90-day timeframe, unless the court directs APS to provide additional or different services.

Based on the extant materials, no information is available on the timelines or criteria for case closure.

QUALITY ASSURANCE

Based on the extant materials, no information is available on APS program quality assurance policies.

Florida

Name of Agency	Florida Department of Children and Families
Name of Program	Adult Protective Services
Data Sources	CF Operating Procedure, Adult Protective Services Adult Protective Service Referrals Operations Manual NAMRS Agency Component Data FFY2016 Report

CONTEXT

ADMINISTRATION

The Florida Adult Protective Services (APS) (Adult Protective Services Act, Chapter 415, F.S. program is a state-run program, administered by the Department of Children and Families. The Adult Protective Services Program serves adults with disabilities who are victims of abuse, neglect, or exploitation. The Program also supports adults with disabilities who need assistance to remain in their homes and/or in the community.

SCOPE

APS investigates reports of alleged maltreatment for vulnerable adults age 18 and older. APS investigates reports in community and institutional settings. Institutional settings (or sometimes referred to as special settings) include mental health hospitals, long-term care facilities, (Assisted Living and Skilled Nursing, and adult family care homes) , and group homes and facilities licensed by the Agency for Persons with Disabilities, and facilities designed to restore individuals with intellectual disability deemed mentally incapacitated to proceed. Institutional settings do not include jails, correctional and detention facilities, and Federal Veteran's Hospitals/Nursing Homes.

A Vulnerable Adult is a person 18 years of age or older whose ability to perform the normal activities of daily living or to provide for his or her own care or protection is impaired due to a mental, emotional, sensory, long-term physical, or developmental disability or dysfunction.

APS investigates the following maltreatment types: emotional abuse, financial exploitation, neglect, physical abuse, self-neglect, sexual abuse, and suspicious death. See appendix B for full definitions.

CONFIDENTIALITY

All reports and records of abuse, neglect, exploitation (ANE) or self-neglect of vulnerable adults are confidential. Reports may not be disclosed except under restricted conditions. Confidential information (e.g. investigation reports) may be released to specific individuals including the victim, the victim's guardian, the victim's caregiver, the alleged perpetrator, and the legal counsel for any of the aforementioned individuals provided that the individual receiving the confidential information abides by the same confidentiality requirements (e.g. do not share the information with persons not authorized by law to have it). Confidential information may be disclosed "when the victim died as a result of abuse, neglect, or exploitation or when the victim suffers serious bodily injury." The reporter's name and any information, which might lead to the identification of the reporter, must be redacted before providing the copy to the requester.

The reporter of an abuse, neglect, or exploitation report is confidential. APS staff must not release this information without the reporter's written consent except to: adult protective investigative staff; protective supervision staff; hotline staff; law enforcement agencies (includes Medicaid Fraud Control Unit); or, the state attorney.

GUIDING PRINCIPLES

APS operates according to the following philosophy:

Many vulnerable adults are unable to care for and/or protect themselves. When they are willfully or intentionally hurt physically, psychologically, or financially by the conduct of their caregiver(s) or other person(s), the department has the authority provided by chapter 415, Florida Statutes to intervene to correct the abuse, neglect, exploitation or self-neglect through the provision of protective services.

The department recognizes that in society there is wide diversity in individual values and lifestyles and protects the individual's freedom of choice.

Consequently, in situations that require protection of a vulnerable adult from abuse, neglect, exploitation, or self-neglect, the department acts upon procedures that afford adults with disabilities the same rights as other citizens and place the fewest restrictions on personal liberty and the exercise of constitutional rights.

INTAKE

REPORTERS

Florida statute provides the legal requirements and responsibilities for APS, including mandatory reporting. A list of mandatory reporters includes but is not limited to the following:

- *Physician, osteopathic physician, medical examiner, chiropractic physician, nurse, paramedic, emergency medical technician, or hospital personnel engaged in the admission, examination, care, or treatment of vulnerable adults;*
- *Health professional or mental health professional other than one listed in subparagraph 1;*
- *Practitioner who relies solely on spiritual means for healing;*
- *Nursing home staff; assisted living facility staff; adult day care center staff; adult family-care home staff; social worker; or other professional adult care, residential, or institutional staff;*
- *State, county, or municipal criminal justice employee or law enforcement officer;*
- *An employee of the Department of Business and Professional Regulation conducting inspections of public lodging establishments under s. [509.032](#);*
- *Florida advocacy council member or long-term care ombudsman council member; or*
- *Bank, savings and loan, or credit union officer, trustee, or employee, who knows, or has reasonable cause to suspect, that a vulnerable adult has been or is being abused, neglected, or exploited shall immediately report such knowledge or suspicion to the central abuse hotline.*

PRIORITIES

The priority levels, assessment of risk, and response requirements are associated with the assessment of Hotline and APS staff. The Hotline accepts a report of maltreatment and examines each allegation made by the reporter to determine the severity of the allegation and immediate risk to the vulnerable adult at the time of the report. Response priorities are characterized as 1) Immediate Response, 2) Response Priority 24-Hour, and 3) Special Handling.

- 1) Immediate Response Priority reports require an immediate protective investigation to ensure prompt initiation of the investigation to ensure the safety of the victim. An Immediate Response Priority meets the following criteria:
 - a. *The vulnerable adult appears to lack capacity to consent to or refuse services; and,*
 - b. *Is at immediate risk of serious injury or death; and,*
 - c. *Is alone with no one available to assume the caregiver role; and,*
 - d. *Law enforcement or EMS is present but not able to take action, or law enforcement and EMS are not present.*

- 2) Response Priority 24-Hour reports require the investigator to commence the investigation and have a face-to-face contact with the victims within 24 hours from the receipt of the report at the Hotline. These reports include:
 - a. *All reports of alleged abuse, neglect, exploitation, or self-neglect that do not rise to the level of an immediate response. Reports in which the victim is in a facility will always be assigned a 24-hour response, unless the report meets the criteria for an immediate response as defined above.*
- 3) Special Handling reports name an employee/contractor of the department as subjects, household members, or family members who have access to information systems for vulnerable adults or children and their families.
 - a. *Special handling coding allows each circuit, region or program to determine the response priority based on whether or not the employee has access to the electronic case management system, the seriousness of the allegations, and other reasons as determined by the circuit, region, or program. The use of a special handling code also maintains confidentiality of a report by blocking access to these reports being given to an employee who attempts access.*

The determination of the overall level of risk to the victim is the responsibility of the Adult Protective Services program. The five risk levels are: high risk, intermediate risk, low risk, no risk, and unknown risk. For the high, intermediate, low risk, and no risk categories the investigator assigns the appropriate risk level after obtaining and documenting sufficient information to support their determination of the likelihood that the victim is at risk of further harm, abuse, neglect, exploitation or self-neglect if APS does not intervene in some way. In cases that are designated no risk, no intervention by APS is necessary. “Unknown Risk means the protective investigator has been unable to locate the victim and does not have sufficient information to determine the overall level of risk.”

The high-risk category means that the subject of the APS referral needs immediate protection from further harm, which can be accomplished completely or in part through the provision of home and community-based services. The high-risk referral will be staffed by APS and other appropriate agencies to determine the specific services needed. APS referrals in need of immediate services to prevent further harm will be given primary consideration for receiving Community Care for the Elderly (CCE) Services. The CCE Lead Agency may elect to coordinate services using other programs, such as Home Care for the Elderly (HCE) and non-Department of Elder Affairs (DOEA)- funded services with the Area Agency on Aging’s (AAA) approval.

Such services may be time limited and designed to resolve the emergency or crisis situation that could place the person at risk of further harm. If the referral is received during business hours, the CCE Lead Agency must initiate the emergency

or crisis resolving service(s) within 72 hours of receipt of the referral packet. For referrals received after business hours, the CCE Lead Agency must initiate the emergency or crisis resolving service(s) within 72 hours of receipt of the phone call from APS. This includes services identified by APS, but not currently provided. Case management alone does not meet this requirement. For high-risk referrals that are currently receiving services funded by the DOEA, the 72-hour time frame includes not only existing services, but also any additional emergency or crisis resolving service(s) identified at staffing.

INVESTIGATION

AUTHORITY

APS cooperates with law enforcement when the department has reasonable cause to suspect that ANE has occurred and was perpetrated by a second party. Law enforcement will determine whether to conduct a criminal investigation, and if they conduct it concurrently or independently of the department's investigation. APS is mandated to immediately notify local law enforcement in writing upon determining reasonable cause to suspect that a victim died as a result of abuse or neglect.

APS has working agreements with each county sheriff's office or local police departments. Law enforcement may assist APS staff with emergency services including: emergency entry into a victim's home is necessary; emergency removal from the premises is indicated; emergency transportation when medical transportation is not available or needed; or, enforcement of court orders is needed.

Involuntary protective services include:

Those services authorized by the court for a victim who lacks the capacity to consent to services and has no caregiver or guardian available to consent to services, or the caregiver or legal guardian refuse to consent to protective services, or it has been determined that it is in the best interest of the vulnerable adult to proceed with involuntary protective services despite the presence of a caregiver or legal guardian.

An alleged victim cannot refuse an investigation, however, they can refuse recommended services if the victim is assessed to have capacity to consent to or refuse services.

The department maintains a Central Abuse Hotline available to all persons 24 hours a day, seven days a week. The Abuse Hotline accepts reports that are written, faxed, electronically submitted via web reporting, or called to the Hotline. The purpose of the Abuse Hotline is to receive reports of allegations of ANE and self-neglect. Hotline counselors assess the information and determine if the information meets criteria to accept. A report accepted by the Hotline

requires a full protective service investigation. Upon receipt of a report ANE of a vulnerable adult, APS must begin within 24 hours a protective investigation of the facts alleged therein.

The Hotline staff transmits such reports to the appropriate investigative unit. State policy requires specific procedures for notifying the following agencies and individuals:

- *The reporter*
- *Law enforcement*
- *Emergency medical services*
- *The court*
- *The state attorney's office*
- *The Long-Term Care Ombudsman Program (LTCOP)*
- *The Medicaid Fraud Control Unit (MFCU)*
- *The Agency for Health Care Administration (AHCA).*
- *The Department of Health's Division of Medical Quality Assurance*
- *The Agency for Persons with Disabilities (APD)*
- *The medical examiner (ME)*
- *The Office of Child Welfare Licensing Unit*

CONDUCTING INVESTIGATION

State law requires that an APS investigator make face-to-face contact with the victim within the 24 hours in order to conduct a client assessment. There are two types of methods for entering the premises and gaining access to the victim: Voluntary (Non-Emergency) Entry and Emergency (Forced) Entry. The investigator assesses the victim's mental, emotional, sensory, long-term physical state(s), or developmental disability or dysfunction by:

- *Observing the victim;*
- *Asking the victim questions that pertain to his/her disability or dysfunction;*
- *Obtaining written documentation or verbal verification of diagnosis by a treating medical professional (physician, physician's assistant or registered nurse practitioner);*
- *Written government documents that indicate the victim's disability or dysfunction;*
- *Social Security, Railroad, Veterans Administration, or other disability determination letters of eligibility;*
- *Medicaid or Medicare records;*
- *Florida state government electronic records; or,*
- *Information from the Agency for Persons with Disabilities.*

Throughout the investigator's observation, the APS worker will note: medical, physical, and behavioral indicators of abuse, neglect, exploitation, or self-neglect; evidence of injury, harm, or threatened harm due to the abuse, neglect, or exploitation; environmental factors as determinants of harm and potential harm; interactions of family and/or household members; and, behavioral and nonverbal messages the victim might display.

The APS worker assessment includes nine areas which the investigator should inquire in order to reach a conclusion regarding the vulnerable adult's capacity to consent to or refuse services.

- 1) *Orientation to person, place and date. The vulnerable adult's ability to identify who he or she is, where he or she is, and when it is.*
- 2) *Capacity to make informed and rational decisions regarding important aspects of one's life (e.g., managing finances and purchases, managing medications and making health care decisions, making decisions about living arrangements and social environment, conducting activities of daily living [e.g., bathing, dressing, eating, traveling]). The vulnerable adult's knowledge and appreciation of personal capacities and resources, and ability to make and communicate rational decisions that are in his or her best interests.*
- 3) *Comprehension of physical, cognitive, emotional, behavioral and environmental limitations. The vulnerable adult's ability to identify and appreciate physical, cognitive, emotional, behavioral capacities and limitations, and make rational decisions regarding person and the environment while taking such into account.*
- 4) *Capacity to identify and utilize available resources that might impact decision making. The vulnerable adult's ability to identify personal needs, and identify, access and make rational decisions about available resources and sources of assistance.*
- 5) *Appreciation of current status and likely outcome if no intervention occurs. The vulnerable adult's understanding and appreciation of his or her current living situation and any associated financial, health, or personal risks that are present or may result without some type of action taking place.*
- 6) *Consultation with relevant medical and mental health providers. The investigator should determine if the vulnerable adult has recently been evaluated or treated by a mental health professional, and seek such information when available. The investigator must also document the outcome of the evaluation in the comments section of the Capacity to Consent (CTC) assessment form. The investigator should obtain a copy of the psychological evaluation and file it in the hard copy record.*

- 7) *Investigations into previous adjudications of incapacity under Florida Statutes Chapter 744. The investigator should determine if the vulnerable adult has been adjudicated incapacitated via c. 744, Florida Statutes. If so, the relevant records should be accessed and relevant information concerning the declaration of incapacity should be recorded in the comments section of the CTC assessment form. The investigator should obtain a copy of the court document declaring the vulnerable adult incapacitated in some way(s) and file it in the hard copy record.*
- 8) *Health care provider consultation. The investigator should consider seeking information from the vulnerable adult's physician or other health care provider that is relevant to assessing the vulnerable adult's capacity to consent to or refuse services, and document such consultation when it occurs.*
- 9) *Registered Nurse Specialist consultation. The investigator should consider consultation with a Registered Nurse Specialist for assistance in determining the vulnerable adult's capacity to consent to or refuse services, and document such consultation when it occurs. This includes the Adult Protective Services Registered Nurse Specialist.*

APS workers should conduct interviews with the following individuals: alleged perpetrator(s); reporter; any witnesses; other relevant collateral sources; immediate family members; and, caregiver and/or guardian.

In addition, the investigator may obtain information from the following professional sources:

- Adult Protective Services counselor with an open service case;
- Staff person from a licensed facility (i.e., owner/operator, administrator, or his/her designee unless that person is the alleged AP);
- Case manager from another agency (i.e., Agency for Persons with Disabilities, Substance Abuse and Mental Health, and Community Care for the Elderly); and,
- Medical professional who is currently involved in the assessment and/or the provision of care to the victim (i.e., Hospice and Home Health Agencies).

APS workers may gather evidence in special settings as a part of their investigation.

Investigations in special settings have an advantage over other types of investigations. These settings can provide a wealth of information, both medical and personal, on individuals in placement and can often offer insight into the allegations. Victim information in special settings includes, but is not limited to the following evidence:

- *Photographs of victims. Each photograph must be uploaded into the electronic case management system as directed in Appendix C to the operating procedure. In addition, a note to the file should be entered in the electronic case management system that indicates the subject of the photo, photographer, date taken and a brief description of the photograph.*
- *Copies of medical records including physician's orders and the victim's diagnosis.*
- *Copies of daily client logs.*
- *Copies of court orders if involuntarily committed to specific facility.*
- *Guardian/guardianship papers.*
- *Copy of mental health assessment or capacity determination established by the facility.*
- *Financial records kept on behalf of the individual.*
- *Security reports/Incident reports generated by the facility.*
- *Victim's care/service plan if applicable to investigation.*
- *Any other documented evidence generated by the facility that helps establish findings.*

The timeframe for completing the investigation and submission of the investigation to Supervisor is no later than 45 days after receiving the initial report of abuse, neglect, exploitation, or self-neglect. The protective investigator must:

- *Complete the investigation including all contacts with the victim, the alleged perpetrator and all essential collateral contacts; and;*
- *Determine whether abuse, neglect, exploitation, or self-neglect occurred and enter findings of maltreatment and a summary of the evidence that support the findings in the electronic case management system; and;*
- *Submit the investigative record to the unit supervisor for review and case closure.*

Professionals and organizations are required by Florida law to provide APS access to records that are determined to be pertinent to the investigation, unless the alleged victim who has capacity to consent to or refuse services, expressly denies access to APS.

As described above on the case priorities, only an adult protective investigator supervisor or an adult protective investigator with the approval of an adult protective investigator supervisor can initiate Adult Protective Services (APS) referrals.

To initiate the case, the APS workers must enter the referral into the Adult Protective Services Referral Tracking Tool (ARTT). Each referral entered into the ARTT must be approved and signed in the ARTT by the protective investigator supervisor within 24 hours of receipt from the adult protective investigator. The requirements for case initiation vary depending on the level of risk of the referral.

DISPOSITIONS

Standard of evidence for substantiating an allegation of maltreatment is a preponderance of the evidence.

After the investigation is concluded, the investigator informs all of the vulnerable adults and alleged perpetrators named in the report of the following:

- *The names of the investigators and identifying credentials from the department.*
- *The purpose of the investigation.*
- *That the victim, the victim's guardian, the victim's caregiver, and the alleged perpetrator, and legal counsel for any of those persons, have a right to a copy of the report at the conclusion of the investigation.*
- *The name and telephone number of the protective investigator's supervisor available to answer questions.*
- *That each person has the right to obtain his or her own attorney.*

If the investigator is recommending additional services; or has implemented services to the vulnerable adult, a notice of conclusion letter is sent to the vulnerable adult (who has capacity to consent to services), their caregiver and legal guardian.

The categories and definitions for the disposition of APS investigations include:

1. *No Indicators. This finding is used when there is no credible evidence to support the allegations in the report. Subjects of the report, any witnesses and collateral documentation do not substantiate the allegations.*
2. *Not Substantiated. This finding is used when there is credible evidence, which does not meet the standard of being a preponderance, to support that the specific injury or harm was the result of abuse, neglect, exploitation, or self-neglect.*
3. *Verified. This finding is used when there is a preponderance of credible evidence that supports the maltreatments. Use verified findings when the investigator has a preponderance of evidence the allegation occurred and the investigator is able to identify the person who is responsible; or, Use verified*

findings when the investigator has a preponderance of evidence the allegation occurred but is unable to identify the person responsible.

Legal consequences for perpetrators may include:

Civil Action—A civil action is a means whereby a victim can sue a perpetrator of harm, and, if successful, be awarded compensation and punitive damages (money) by a jury or by the court. In most cases only the victim, the victim’s guardian, or person or organization acting on behalf of the victim or guardian, or the personal representative of the victim’s estate may bring a civil action against the perpetrator of abuse, neglect, or exploitation.

Certain individuals may seek actual and punitive damages from the perpetrator on behalf of the victim who has been abused, neglected, or exploited. These individuals may petition a court of competent jurisdiction for recovery of actual and punitive damages for any deprivation of or infringement on the rights of the victim. The action for damages may be brought by the victims as well as other individuals.

POST-INVESTIGATIVE SERVICES

AUTHORITY

As a result of an investigation, APS may provide services to alleged victims when needed, or accepted. If at any time the client refuses services, the services are immediately terminated, which may leave the client at risk of further harm.

When the investigator determines that a vulnerable adult who has capacity to consent to or refuse services is in need of services, but refuses to accept services, the investigator will: document the need for services in the current electronic case management system; and, document the refusal of the victim to accept services in the electronic case management system.

APS services are based on the assessment of needs of the vulnerable adult. As such, services are not offered to alleged perpetrators, but based on the client’s wishes and needs, the services may benefit both the victim and family.

APPROACH

Services should be provided, as much as possible, in the least restrictive environment with the fewest restrictions on personal liberty and the exercise of constitutional rights.

Timeliness requirements for case closure is established by state law and includes a supervisor review and closure no later than 60 days following the receipt of a report. In some cases, a report is not ready for closure by the 60th day. Exceptions to closing a report include awaiting evidence, witness unavailable, and awaiting judicial, law enforcement, and medical examiner review. In other cases, closure may be expedited. Expedited case closure requirements:

- *The expedited closure may be used when on-site investigation produces clear, observable evidence that disproves the allegations.*
- *The protective investigator will commence the investigation within the assigned response time frame.*
- *The protective investigator will make face-to-face contact with the victim and alleged perpetrator if the identity of the alleged perpetrator is known.*
- *During the face-to-face contact with the victim the protective investigator will: determine if there is evidence of any allegations; determine the vulnerable adult's capacity to consent to service; determine the risk level for the vulnerable adult; and assess the vulnerable adult's need for services making referrals for service needs identified.*

APS contacts the victim within 15 days of submitting the investigation for closure for a final follow-up. If the victim has capacity to consent to or refuses services, and; there are no indicators for abuse, neglect or exploitation, or, the initial report is alleging self-neglect, a final follow up is not required.

QUALITY ASSURANCE

The department will monitor the protective services investigation through the Adult Protective Investigator Supervisor (APIS), Human Services Counselor Supervisor (HSCS) and Program Administrator (PA). The role of the adult protective investigator supervisor and the human services counselor supervisor is to ensure that all staff are performing their duties as required by Florida statutes and program policies and procedures. The unit supervisor must provide guidance and training to each protective investigator and counselor through regularly scheduled conferences, case monitoring, evaluations, unit meetings, case staffing, and planned training activities. The unit supervisor is also responsible for reading cases, completing all required reports, identifying personnel needs and problems, completing evaluations, and coordinating the unit's work flow. The Program Administrator oversees both the Investigative and Services supervisors and conducts monitoring activities on both elements of APS, including random case reading, deployment of staff based on needs, and maintain budget.

The adult protective investigation record review includes two levels of reviews during an investigation:

- 1) Supervisory reviews are completed by the Adult Protective Investigator Supervisor.
- 2) Second-party reviews are completed by the Program Administrator (PA) or another individual working at a level higher than an Adult Protective Investigator Supervisor.

Adult Protective Investigator Supervisors conduct:

An Initial Safety Review

- *An initial supervisory review of the safety assessment within 72 hours of the initial submission by the investigator. This supervisory review is considered the initial review.*
- *Supervisors review each investigative record for accuracy, completeness, compliance with and all current policy and procedures.*
- *Supervisors provide investigators with written feedback and clear instructions on corrections needed and any additional investigative actions required, as well all actions waived by the supervisor must be identified, explained and documented in the electronic case record.*
- *The initial supervisory review is documented in the electronic case management system.*
- *Key components of the investigation reviewed at the initial review include:*
 - *Interview with victim (or documented diligent effort to locate, including supervisory notifications); and,*
 - *Determine capacity to consent to or refuse services for each victim; and,*
 - *Determine initial risk level for each victim; and,*
 - *Determine immediate service needs.*

Review of Updated Safety Assessments

- *All adult safety assessments (initial, updates and closures) submitted during the course of the investigation must be reviewed by the supervisor within 72 hours. All supervisory reviews are documented in the electronic case management system.*
- *Supervisors review each assessment and investigative record for accuracy, completeness, compliance with Chapter 415, F.S. and all current policy and procedures.*
- *Supervisors provide investigators with written feedback and clear instructions on corrections needed and any additional investigative actions required, as well all*

actions waived by the supervisor must be identified, explained and documented in the electronic case record.

A High-Risk Review—Adult Protective Investigators determine some victims are at high risk of suffering further harm.

- Supervisory review of the investigative file is required every seven (7) calendar days for each investigation in which the victim is determined to be at high risk. The review should include what attempts have been made to decrease the victim’s risk, referrals made, and if a service case has been or should be open by APS.
- Supervisory review continues every seven (7) days until the risk level is reduced or the investigation is closed.
- Each supervisory review must be documented in the electronic case management system.

A Thirty-Day Review—All reports where the victim is not determined to be at a high-risk level will be reviewed by the supervisor again within thirty calendar days from receipt. This review, like the initial review, identifies corrections and additional actions needed. Supervisors must provide clear written instructions to investigators. Thirty-day case reviews must be documented in the electronic case management system.

A Final Review—Adult Protective Investigator Supervisors must review all completed investigations before they are closed in the electronic case management system. This is the final review of the investigation.

- Supervisors must complete the final review of investigations within fifteen (15) days from the date the investigator submits the investigation for closure.
- Supervisors review each investigation for accuracy, completeness and compliance with chapter 415, F.S. and this operating procedure.
- Supervisors provide investigators with written feedback and clear instructions on corrections needed and any additional investigative actions required.
- Supervisors document the final review of the investigation in the electronic case management system.

Real Time Quality Assurance (RQA) Reviews – Adult Protective Investigations cases are also selected for Real Time Quality Assurance Reviews. Cases may be selected at random, or at the request on an investigator and a quality assurance review is completed *while the investigation is still open*. This allows for positive feedback to be provided on particularly difficult investigations, corrections to be made and what is needed to close the investigation.

Closed Quality Assurance (CQA) Reviews – Quality assurance reviews are conducted quarterly on closed cases for each investigator and counselor. Each quarter, region QA specialists select two investigations per investigator and two service cases per counselor that was closed in the month prior for QA review. QA specialists utilize the standardized QA tools for investigations and services, then provide the results to APS Operations management for their usage in identifying areas of improvement and quarterly performance reviews of staff.

Georgia

Name of Agency	Georgia Department of Human Services, Division of Aging Services
Name of Program	Adult Protective Services
Data Sources	Georgia Adult Protective Services Policy Manual Part II Policies and Procedures for Adult Protective Services Case Management NAMRS Agency Component Data FFY2020 Report

CONTEXT

ADMINISTRATION

The Georgia Adult Protective Service Program operates under the Disabled Adults and Elder Persons Protection Act, O.C.G.A. §§ 30-5-1, et seq. It is a state-run program investigating all reports of abuse, neglect, and/or exploitation of older persons (65+) or an adult (18+) with a disability who do not reside in long-term care facilities. All APS reports are sent to the Centralized Intake Unit, with staff working remotely throughout the state and one worker assigned to the state office daily. Regional Supervisors have direct responsibility for supervision of Case Management staff within each of the 12 planning and service areas (PSAs) for the Division of Aging, which are further organized into four APS districts. District Managers and Supervisors are responsible for program management and supervision at the field level.

SCOPE

Adult protective services are available to adults with disabilities (age 18 or older) and elder persons (age 65 or older, regardless of mental or physical capacity) who are not living in a long-term care facility. A person's income, permanent residency and citizenship status have no effect on his or her eligibility for APS, but he or she does need to be currently present in Georgia.

Protective services are provided for the purpose of preventing or mitigating the risk for further or future abuse, neglect, or exploitation.

CONFIDENTIALITY

Confidentiality is important and respected. APS values communication with those closely involved with the client but will not share details of the investigation.

Prosecuting attorneys, corners, Law enforcement and other agencies can have reasonable access to APS records when conducting an investigation into any criminal offense, death or regulatory violation in which a disabled adult or elder person is or may be a victim.

GUIDING PRINCIPLES

The following aspirational principles, values and beliefs (from the National Adult Protective Services Association, Ethical Principles and Best Practice Guidelines) guide the practice and intervention by APS to protect the rights and well-being of at-risk disabled adults and elder persons:

- Each person/each case is unique
- The vulnerable adult has a right to autonomy and is our primary client—not the community or the family
- Each client has a right to self-determination and is in control of decision-making until facts prove otherwise
- Every adult has the right to informed consent. Consent is required for on-going protective services and an adult is considered to be capable of making his/her own decisions unless the court has ruled otherwise
- Each client is presumed to be "mentally competent", until facts prove otherwise
- When a client lacks capacity, APS shall promote the use of substitute judgement based on the adult's expressed wishes and preferences
- Services will be the least restrictive possible for the client; more intrusive interventions, such as institutionalization or guardianship, will be a last resort and will include due process
- An adult also has a right under the law to be protected when he is unable to protect himself by reason of physical or mental status
- APS staff shall maintain a professional relationship with client, caregivers and community partners. Staff should be friendly, not friends, and clearly communicate boundaries
- Confidentiality is important and respected
- Adult protective services require a multi-disciplinary approach
- When in the best interest of the adult, APS staff will use family and informal supports.
- The "wrong" intervention may be worse than none at all

INTAKE

REPORTERS

Any person required to report child abuse, physician, osteopath, intern, resident, other hospital or medical personnel, dentist, psychologist, chiropractor, podiatrist, pharmacist, physical therapist, occupational therapist, licensed professional and counselor, nursing personnel, social work personnel, day-care personnel, coroner, medical examiner, employee of a public or

private agency engaged in professional health related services to elder persons or disabled adults, employee of a financial institution, law enforcement personnel, clergy, financial institution or investment firm who has reasonable cause to believe that a disabled adult/elder person has been injured by a caretaker, other than by accidental means, or has been neglected or exploited by a caretaker, is mandated by law to report this to APS.

APS keeps the identity of the reporter confidential; this is not disclosed to APS clients, family members of APS clients, the public, or other agencies. However, the names of reporters may be released verbally or in writing to the court, when ordered by a judge, the district or county attorney, law enforcement agencies, and APS staff.

PRIORITIES

Within one business day, APS staff must acknowledge the receipt of the report from APS Central Intake and assign for investigation, either as standard or priority report.

Priority reports require a face to face visit within two business days of receipt of the report and may indicate a need for other intervention including initial contact by telephone, possible contact with the reporter, or referral to first responders (e.g., hospital/medical providers; mental health crisis, law enforcement).

Standard reports require an initial face to face visit with the client no later than 10 calendar days from the date the report was received by APS central intake.

INVESTIGATION

AUTHORITY

During their investigations, APS staff are required to work with law enforcement agencies, legal services, the court system and a variety of agencies depending on the nature of the case to gather information and complete an analysis in order to determine whether the alleged abuse, neglect and/or exploitation should be substantiated or unsubstantiated, whether the disabled adult or elder person is in need of protective services and what services are needed. A Release of Information (ROI) for medical providers, mental health providers and/or financial institutions with information should be signed by the client (this is not required during an APS investigation but may aid in the acquisition of documents).

Case managers should visit the person who is the subject of the report and consult with anyone who may have knowledge about the subject of the report, including alleged perpetrator(s), witnesses and professionals. The client's consent is not required to proceed with the investigation.

If the APS case manager is prevented by another person from gaining access the vulnerable adult, APS may petition the court for an order authorizing the investigation and prohibiting

interference. Any person willfully violating the order shall be in contempt of court and may be punished accordingly by the judge of the court issuing the order.

When APS determines that an adult with a disability or elder person is at an immediate, clear, and substantial risk of death or serious physical injury, illness, disease and/or irreparable waste or dissipation of the adult's assets and cannot remain protected due to an incapacity and no sufficient alternatives to guardianship or conservatorship are available, an emergency guardianship and/or conservatorship can be filed with a probate court.

CASE INITIATION

The central intake specialist obtains all the details from the reporter and then determines whether the report meets the criteria for APS. If the report meets the criteria for APS, the central intake specialist then determines whether an emergency or standard response is needed. The report is sent to the supervisor to be delegated for investigation. If the report does not meet criteria for APS, a referral can be made, usually by telephone, to other agencies or resources.

The central intake specialist notifies the reporter about whether the investigation will proceed, if more information is required or if report did not meet criteria. This can be done during the live call and/or via the statutory acknowledgement letter sent to all reporters.

CONDUCTING INVESTIGATION

When a report is assigned for investigation, APS conducts a complete assessment of all risks and unmet needs, including risk indicators alleged by the reporter, as well as other risks identified during the investigation. The APS investigation and assessment are done concurrently and have two distinct purposes. The investigation focuses on the legitimacy of the allegations, and the comprehensive assessment focuses on the client's unmet needs, the support system and ongoing risk.

The comprehensive assessment will always include:

- The APS Risk or ANE Assessment
- 'Determination of Needs-Revised' (DON-R)
- Completed case notes

Under specific circumstances, additional assessments may also include:

- Income Worksheet in all Financial Exploitation cases
- SLUMS (Saint Louis University Mental Status) Exam when cognitive impairment is alleged or suspected

- Patient Health Questionnaire, Depression Module (PHQ-9)
- Falls Risk Assessment Tool

Supporting documents should be gathered related to the ANE, functional capacity and cognitive capacity such as medical records, financial records, utility statements, and Power of Attorney.

APS may request that an ROI for medical providers, mental health providers and/or financial institutions with information be signed by the client. This is not required during an APS investigation but use of the ROI may aid in the acquisition of documents.

DISPOSITIONS

The standard of evidence used is preponderance of the evidence. The categories of APS dispositions are as follows:

- **Substantiated Disposition**—Based upon evidence gathered and professional judgment, there is preponderance of evidence that abuse, neglect and/or exploitation has occurred.
- **Unsubstantiated Disposition**—Based upon evidence gathered and professional judgment, there is preponderance of evidence that abuse, neglect and/or exploitation has not occurred.
- **Inconclusive Disposition**—Based upon insufficient evidence to determine if abuse, neglect and/or exploitation has occurred. This would be the disposition if the subject of the report, key collaterals and/or collateral documentation could not be located, if the client died during the course of the investigation or any other reason that the preponderance of evidence standard that ANE has or has not occurred could not be met.

Each maltreatment allegation within each report is assigned a disposition, thus, one case may have multiple dispositions.

POST-INVESTIGATIVE SERVICES

AUTHORITY

When cases are substantiated or unsubstantiated, the case manager determines whether services shall be provided a based on the level of risk.

Once the adult has been evaluated to be in need of ongoing protective services, the case worker should present to the adult who is the subject of the investigation and/or designated caregiver the option to have APS assist in the mobilization of services. If permission is granted,

the adult will be placed into either short-term on-going services or standard on-going services depending on the type of services needed and the time required to deliver them.

Short-term on-going services would include follow-up on referrals made to the Aging and Disability Resource Connection (ADRC), assistance with utilizing Temporary Emergency Respite Funds (TERF) in securing long-term housing alternative; or monitoring pending guardianship and/or conservatorship proceedings as a result of a petition filed by APS. Consent is not required for short term on-going services related to monitoring of pending legal action, and no case management provided when consent is not given.

Standard ongoing services would address problems related to home management, food insecurity, lack of or insufficient in-home care, need for alternative living situation, help accessing medical, legal, health and other resources, advocacy to obtain entitled benefits assistance, and other issues as identified. APS clients must consent to standard ongoing services, verbally and by signing a case plan, and should also understand the purpose and intended outcome of the case plan.

APPROACH

The decision to provide standard ongoing APS intervention and targeted case management must reflect the least restrictive alternative for protection of the client. Interventions such as institutionalization or guardianship, should be considered as a last resort and will include due process. Each client has a right to self-determination and is in control of decision-making until facts prove otherwise. Client consent is required prior to pursuing standard on-going services on their behalf.

The APS case management program, on a limited basis, is able to incur costs of some medical, nutritional, social, educational, transportation, housing, and other expenses that will enable them to remain in a safe home environment. Services are viewed as a one-time emergency measure, and clients must be able to maintain stability once APS is no longer involved.

Short-term on-going services shall not exceed 90 calendar days. If the service needs extend beyond 90 days and criteria is met for standard on-going services, short-term ongoing services can become standard on-going services. Standard on-going services are re-evaluated 6 months from the start of services, require supervisory approval to continue.

All APS ongoing cases are terminated when the goals of the services have been met, the client is no longer at-risk, services are being provided from other sources, the client withdraws consent to ongoing services, a caretaker, conservator, or guardian becomes available to protect the client so he or she is no longer at risk, the client moves into a new environment that will afford the protection and care, or the client dies.

QUALITY ASSURANCE

The supervisor is responsible for reviewing case findings and approving case dispositions, reading the case record, determining the quality of investigative work, providing consultation, requesting further actions by the case manager as needed manager prior to closure of the investigation, closing investigations, and, if applicable, opening the case for on-going services.

All actions taken by APS on behalf of the client including statements, observations, notifications, correspondence, and hard copy evidence used to evaluate the client's condition and needs, must be placed into the electronic case record. Documentation in the electronic information management system should include case assessment tools, case notes, determination/justification statement, and Disabled Adult and Abuse Report (DAAR).

Documentation of services provided and billed is also required, including a current comprehensive service plan which identifies any service needs which have not been adequately accessed and a timeframe to reassess service needs, documentation of at least monthly contact with each member receiving case management services, description of the services provided and outcome; and documentation of any billing to third parties.

Based on extant materials reviewed, no additional information was available about quality assurance activities.

Hawaii

Name of Agency	Department of Human Services
Name of Program	Adult Protective and Community Services
Data Sources	Highlights of the Adult Protective Services Law, Effective July 1, 2009 Guidelines for Mandated Reports: Vulnerable Adult Abuse and Neglect NAMRS Agency Component Data FFY2020 Report

CONTEXT

ADMINISTRATION

The Hawaii Adult Protective Services Program operates under the Hawaii Revised Statutes (HRS), Chapter 346, Part X (Act 154, SLH 2008). It is a state-run program within the Hawaii Department of Human Services (DHS). Adult Protective Services is a mandated service of the Adult Protective and Community Services Branch (APCSB), that provides protective services for vulnerable adults and home and community-based services to prevent premature institutionalization of clients. “APS provides crisis intervention, without regard to income, including investigation and emergency services for vulnerable adults who are reported to be abused, neglected or financially exploited by others or seriously endangered due to self-neglect.”

SCOPE

It is a person's vulnerability, not necessarily age, which is often encountered in cases of abuse, neglect, and exploitation. A vulnerable adult, defined as anyone 18 years or older with a mental, developmental or physical impairment and is also unable to 1) communicate or make responsible decisions to manage his/her own care or resources; 2) carry out or arrange for essential activities of daily living; or 3) protect oneself from abuse.

APS investigates the following providers: Adult Residential Care Homes (ARCH Type I and ARCH Type II), Adult Day Care Centers, Assisted Living Facilities, Adult Day Health Centers, Alcohol/Drug Abuse Treatment Centers, Community Care Foster Family Homes, Developmental Disabilities Adult Foster Homes, Developmental Disabilities Domiciliary Homes, Intermediate Care Facility for Individuals with Intellectual Disabilities (ICF/IID) (Small and Large), Developmental Disabilities Adult Day Programs, Expanded ARCH, Psychiatric Facilities, Hospital (Acute Care), and Nursing Facilities,

The following types of abuse are defined in HRS §346-222):

- *caregiver neglect* means the failure of a caregiver to exercise that degree of care for a vulnerable adult that a reasonable person with the responsibility of a caregiver would exercise within the scope of the caregiver's assumed, legal or contractual duties, including but not limited to the failure to: (1) Assist with personal hygiene; (2) Protect the vulnerable adult from abandonment; (3) Provide, in a timely manner, necessary food, shelter, or clothing; (4) Provide, in a timely manner, necessary health care, access to health care, prescribed medication, psychological care, physical care, or supervision; (5) Protect the vulnerable adult from dangerous, harmful, or detrimental drugs, as defined in section 712-1240; provided that this paragraph shall not apply to drugs that are provided to the vulnerable adult pursuant to the direction or prescription of a practitioner, as defined in section 712-1240; (6) Protect the vulnerable adult from health and safety hazards; or (7) Protect the vulnerable adult from abuse by third parties.
- *financial exploitation* means the wrongful taking, withholding, appropriation, or use of a vulnerable adult's money, real property, or personal property, including but not limited to: (1) The breach of a fiduciary duty, such as the misuse of a power of attorney or the misuse of guardianship privileges, resulting in the unauthorized appropriation, sale, or transfer of property; (2) The unauthorized taking of personal assets; (3) The misappropriation or misuse of moneys belonging to the vulnerable adult from a personal or joint account; or (4) The failure to effectively use a vulnerable adult's income and assets for the necessities required for the vulnerable adult's support and maintenance, by a person with a duty to expend income and assets on behalf of the vulnerable adult for such purposes. Financial exploitation may be accomplished through coercion, manipulation, threats, intimidation, misrepresentation, or exertion of undue influence.
- *physical abuse* means: (1) The nonaccidental infliction of physical or bodily injury, pain, or impairment, including but not limited to hitting, slapping, causing burns or bruises, poisoning, or improper physical restraint; or (2) Causing physical injuries that are not justifiably explained or where the history given for an injury is at variance with the degree or type of injury.
- *psychological abuse* means the infliction of mental or emotional distress by use of threats, insults, harassment, humiliation, provocation, intimidation, or other means that profoundly confuse or frighten a vulnerable adult.
- *self-neglect* means: (1) A vulnerable adult's inability or failure, due to physical or mental impairment, or both, to perform tasks essential to caring for oneself, including but not limited to: (A) Obtaining essential food, clothing, shelter, and medical care; (B) Obtaining goods and services reasonably necessary to maintain minimum standards of physical health, mental health, emotional well-being, and general safety;

or (C) Management of one's financial assets and obligations to accomplish the activities in subparagraphs (A) and (B); and (2) The vulnerable adult appears to lack sufficient understanding or capacity to make or communicate responsible decisions and appears to be exposed to a situation or condition that poses an immediate risk of death or serious physical harm.

- *sexual abuse* means nonconsensual sexual contact or conduct caused by another person, including but not limited to: (1) Sexual assault, molestation, sexual fondling, incest, or prostitution; or (2) Pornographic photographing, filming, or depiction.

Reports shall meet the following standards to be accepted for investigation:

- *the abuse has occurred or the vulnerable adult is in danger of abuse if immediate action is not taken*
- *the self-neglect standard is higher and requires that the vulnerable adult appears to be exposed to a situation or condition that poses an immediate risk of death or serious physical harm.*

CONFIDENTIALITY

Reports made to APS are confidential. DHS makes every reasonable effort to maintain the confidentiality of the reporter. Hawaii Administrative Rules §17-1401.1-6 allows the department to disclose confidential information to third parties without written authorization or court order when the disclosure is made pursuant to a legitimate state purpose and as necessary to serve and protect the vulnerable adult.

GUIDING PRINCIPLES

APS believes that competent adults have a right to decide where and how they live and what assistance to accept in their lives. APS workers respect an individual's right to self-determination and victims have the right to refuse services offered. If a vulnerable adult has the capacity to consent to receiving services, he/she also has the right to participate in all decisions about his or her welfare, choose the least restrictive alternatives, refuse medical treatment, and withdraw from protective services.

INTAKE

REPORTERS

Hawaii law, HRS §346-224, mandates certain persons to report vulnerable adult abuse. Mandated reporters are licensed or registered professionals who examine, attend, treat, or provide other professional or specialized services such as physicians, psychologists, dentists, nurses, surgeons, and other health-related professionals; employees or officers of any public or

private agency or institution providing social, medical, hospital or mental health services; employees or officers of any law enforcement agency including, the courts, police departments, correctional institutions, and parole or probation offices; and employees or officers of adult residential care homes, adult day care centers, or similar institutions such as community care foster family homes. Persons who are not mandated reporters are also encouraged to report vulnerable adult abuse.

A mandated reporter who knowingly fails to report an incident involving vulnerable adult abuse or neglect, or who willfully prevents another person from reporting such an incident shall be guilty of a petty misdemeanor.

Anyone, mandated or non-mandated person, participating in good faith in making a report of vulnerable adult abuse shall have immunity from civil or criminal liability.

APS does not have established response times for vulnerable abuse reports.

INVESTIGATION

AUTHORITY

When a report is accepted for investigation, a social worker and/or a registered nurse are assigned to investigate and determine if the adult has been harmed. Information is gathered through interviewing the vulnerable adult, the alleged perpetrator, family members, caregivers, and agencies involved in providing service to the adult. Investigations may require more than one visit with any of these parties involved, including the mandated reporter. APS may involve police if they are refused access to the vulnerable adult. In addition, documentation deemed pertinent to the alleged abuse, including financial records and medical reports, can be gathered as evidence, even when they were not included in the initial written report submitted to APS.

Per HRS §346-13, the Director of Human Services has the authority to interview witnesses or issue subpoenas for the testimony of witnesses and documents upon justification by APS.

Per HRS §346-229, APS is authorized to visit and communicate with the vulnerable adult. It is a misdemeanor for anyone to knowingly obstruct or interfere with the APS worker's access or communication with the adult. If APS has probable cause to believe a vulnerable adult will be physically injured, APS may enter the premises to ascertain the vulnerable adult's welfare without a warrant. APS may request police assistance to gain entrance to the vulnerable adult.

APS can only provide services with the consent of the vulnerable adult. If a vulnerable adult is able to make decisions, s/he has the right to refuse services. If a physician determines that a vulnerable adult lacks the capacity to make an informed decision and a life-threatening danger exists, APS can initiate legal proceedings to help protect the adult. Legal remedies may include Orders for Immediate Protection (HRS §346-231), petitions for guardianship and/or conservatorship.

CASE INITIATION

The statewide Adult Intake Unit (AIU) screens and determines whether reports of vulnerable adult abuse meet the criteria for an APS investigation: 1) the alleged victim meets the statutory definition of a vulnerable adult; and 2) abuse has occurred or is in danger of occurring if immediate action is not taken. The Adult Intake Unit worker gathers information from the reporter and other sources to make this determination. –

CONDUCTING INVESTIGATION

An investigation of vulnerable adult abuse consists of gathering information through talking to the vulnerable adult, the alleged perpetrator, the reporter, and other parties such as family members, caregivers, agencies involved in providing service, witnesses to the incident, and by gathering and reviewing documentation deemed pertinent to the alleged abuse, such as financial documents and medical reports, depending upon the alleged abuse incident.

APS obtains records with the written consent of the vulnerable adult or the vulnerable adult's representative, or by court order. Persons who report to the department under HRS §346-224, upon demand of the department, shall provide all information related to the alleged incident of abuse— Hawaii APS will pursue a subpoena to obtain information deemed relevant to the investigation when efforts to gather information have been unsuccessful.

Investigation continues until a determination to confirm or not confirm abuse or neglect is made, generally within 60 days from receipt of the report.

In addition to determining whether abuse occurred, the investigation includes an assessment of the need for protective services and referrals to appropriate resources. An assessment of the alleged victim is made to understand the adult's situation and level of functioning.

DISPOSITIONS

The dispositions for Hawaii APS investigation of alleged abuse are confirmed and unconfirmed or not confirmed. The standard of proof is the preponderance of the evidence. If there is not enough evidence to support preponderance that abuse has occurred, the allegation is unconfirmed or "not confirmed" however, the APS social worker may provide consultation, help with needs, or make referrals to other resources in the community.

Hawaii APS is required to inform the vulnerable adult or the vulnerable adult's legal guardian, and the alleged perpetrator, orally or in writing, of the decision to confirm or not confirm the abuse allegation(s). In addition, the alleged perpetrator is notified in writing of the disposition, using a department form.

Alleged perpetrators are given the right to request an informal review and/or an administrative hearing to contest the APS decision to confirm the abuse allegations. A written request for an

administrative hearing must be received by APS within 90 calendar days from the date the abuse confirmation notification was sent to the alleged perpetrator.

Depending on the situation, location of the alleged abuse, and the certification or licensure of the alleged perpetrator. Hawaii APS may inform the other government agencies on a need-to-know basis when an APS report is accepted for investigation and when the investigation is completed. These agencies include: Department of Health Office of HealthCare Assurance (DOH-OHCA), DOH, Developmental Disabilities Division, Department of the Attorney General Medicaid Fraud Control Unit (DAG-MFCU), Department of Commerce and Consumer Affairs (DCCA), and/or Office of the Public Guardian.

Disclosure with other state agencies may serve to support collaborative efforts to address incidents or concerns to prevent abuse or its reoccurrence, and/or another agency's ability to address incidents or concerns within their scope of authority, such as appropriate licensing of professionals or care facilities. For example, the Department of Commerce and Consumer Affairs (DCCA) is notified when APS confirms abuse on individuals who are certified nurse aides (CNA), or individuals requiring professional or vocational licensure to practice. An abuse "finding" on a CNA may be entered onto the Nurse Aide Registry. Abuse confirmations on individuals who require professional or vocational licensure may result in an investigation conducted by the Regulated Industries Complaints Office (RICO) of DCCA.

POST-INVESTIGATIVE SERVICES

AUTHORITY

If the report to APS does not meet the criteria for confirmed abuse, the APS investigator or case manager will make appropriate referrals for the adult to other resources so that future reports or actual abuse does not occur. The adult shall be referred to the agency responsible for follow-up services such as the Department of Health (DOH) for serious mental illness, mental retardation and/or developmental disability. APS does not have case management positions on all islands, currently there is a case manager on Maui, East Hawaii and Oahu. There may be certain circumstances where a case manager may provide short term case management services to the adult until appropriate agencies and services are involved.

For confirmed abuse, APS will provide or make referrals to other service providers to help remedy problems that may lead to abuse or neglect. When a case manager is available to provide short term case management up to 6 months, the case manager will complete a strength and needs assessment and develop a service plan describing the needs of the victim and the services that will assist in addressing the needs. The case manager will provide monthly home visits and follow-up with progress of service providers. APS has very limited resources and must rely on other public and private agencies for ongoing support of the vulnerable adult. APS will access any State resource for which the vulnerable adult is eligible or

any private resource which might be able to assist the vulnerable adult. APS can pay for some services when the usual benefits from other public or private resources are not available, but payment cannot exceed 45 days.

APS will also refer vulnerable adults to DOH or other community case management resources at the conclusion of the APS short-term case management intervention.

If the vulnerable adult is competent, he/she may refuse any services that are offered. If a client consents to services, he/she has the right to participate in all decisions about his or her welfare, choose the least restrictive alternatives, refuse medical treatment, and withdraw from protective services.

APS can only provide investigative and case management services with the consent of the vulnerable adult. A court order can be obtained for immediate protection which requires a medical determination that the vulnerable adult lacks the capacity to consent. In cases of self-neglect, there must be an immediate risk of death or serious harm.

APPROACH

APS believes that competent adults have a right to decide where and how they live and what assistance to accept in their lives. An individual's right to self-determination is respected, and victims have the right to refuse services offered by APS workers.

When a competent adult chooses to accept case management services, the case manager will conduct a strength and needs assessment involving vulnerable adults participation in the process with goals of assisting the vulnerable adult in: 1) avoiding further abuse or neglect, 2) addressing identified needs through community resource referrals and service linkage, and 3) prevent premature institutionalization

Hawaii's state budget does not include funds for the APS program to spend on purchased services for victims.

QUALITY ASSURANCE

The APS supervisor is required to review and approve the disposition to confirm or not confirm the abuse allegations. The APS worker is to discuss the concluding disposition with the supervisor prior to informing the alleged victim and alleged perpetrator. The APS supervisor's approval is also required for case closure.

Intake and case data are to be entered into the system of record with a minimum of: report date, case name, victim's name, birthdate, race, marital status, dependency status, victim problems, census tract, public assistance, living arrangement, alleged perpetrator's relationship to victim, alleged perpetrator's name, sex, birthdate, Social Security Number, and source of report no later than 4 hours from the time of the report.

Statewide Quality assurance efforts were initiated in 2016 with a random selection of closed cases followed by sharing of findings and trainings to address areas for improvement. Ongoing unit specific case data retrieval will be conducted, to review and address unit specific areas for improvement in the future.

Idaho

Name of Agency	Idaho Commission on Aging
Name of Program	Adult Protective Services
Data Sources	APS Implementation Guide and Process ICOA Rules of Administrative Procedure NAMRS Agency Component Data FFY2020 Report ICOA Program Manual

CONTEXT

ADMINISTRATION

Title 67-5011 of the Idaho Statutes established the Idaho Adult Protective Services (APS) program under the Idaho Commission on Aging (ICOA).

67-5011. ADULT PROTECTIVE SERVICES. Adult protective services for vulnerable adults shall be administered through the commission. Adult protective services are specialized social services directed toward assisting vulnerable adults who are unable to manage their own affairs, carry out the activities of daily living or protect themselves from abuse, neglect or exploitation. For the purposes of implementing the provisions of this section, the commission shall assume all responsibilities cited in [chapter 53, title 39](#), Idaho Code, entitled "adult abuse, neglect and exploitation act."

ICOA accepts applications for Area Agency on Aging (AAA) designation. There are up to six AAAs to ensure funding is available for each service area.

All staff members are employees of the AAA.

SCOPE

Adult Protective Services are available to vulnerable adults. Title 18-1505, of Idaho Statutes defines a vulnerable adult as:

A person eighteen (18) years of age or older who is unable to protect himself from abuse, neglect or exploitation due to physical or mental impairment which affects the person's judgment or behavior to the extent that he lacks sufficient understanding or capacity to make or communicate or implement decisions regarding his person.

Adult Protective Services (APS) investigates reports involving vulnerable adults that reside in the local community and care facilities; however, cases involving a resident of a nursing facility should immediately be referred to the Idaho Department of Health and Welfare.

AAA's must ensure their outreach efforts include older individuals with severe disabilities who are eligible for assistance. When a report is investigated and substantiated, the AAA has the responsibility to assist the adult in obtaining reasonable and necessary available services.

Based on the extant materials, no information is available on additional eligibility criteria.

APS investigates reports of abuse, neglect, self-neglect, and/or exploitation of a vulnerable adult. The definition for each may be found in appendix B.

CONFIDENTIALITY

Pursuant to the Idaho Records Law, the Adult Abuse, Neglect and Exploitation Act, and the Rules promulgated by Idaho Commission on Aging, the records of Adult Protective Services cases are governed as follows:

Records Deemed Confidential: Information and records obtained during the course of an Adult Protective Services investigation deemed confidential include but are not limited to:

- Notes of all interviews with clients or collateral contacts;
- All copies of medical records or diagnosis;
- All records relevant to investigations;
- All memoranda generated by any agency office authorized to carry out the duties of the Adult Abuse, Neglect and Exploitation Act;
- All photographs, videotapes, tape recordings, etc. obtained in the course of an investigation;
- All memoranda or letters generated or received during an investigation.

According to program rule:

All records of investigations compiled or obtained during the course of an Adult Protective Services case are confidential and may not be released to any member of the public, except as provided herein.

Release of Confidential Records: Adult Protective Services case records may only be disclosed as follows:

- *Disclosure is made to law enforcement pursuant to the Adult Abuse, Neglect and Exploitation Act.*
- *Disclosure is made to a person, department, agency or commission authorized to carry out the duties of the Adult Abuse, Neglect and Exploitation Act.*

- *Disclosure is made pursuant to a legal subpoena in a judicial process.*
- *Disclosure is made pursuant to a legal discovery request in an administrative or judicial proceeding.*
- *Disclosure is made pursuant to the Idaho Public Records Law with the written consent of the vulnerable adult or his legal representative.*

GUIDING PRINCIPLES

IC 39-5301A. Health and Safety, Adult Abuse, Neglect and Exploitation Act, Declaration of Policy:

1) It is the intent of the adult abuse, neglect and exploitation act to authorize the fewest possible restrictions on the exercise of personal freedom and religious beliefs consistent with a vulnerable adult's need for services and to empower vulnerable adults to protect themselves.

(2) The legislature recognizes that vulnerable adults sometimes experience difficulties managing their own affairs or are unable to protect themselves from abuse, neglect or exploitation. Often, vulnerable adults cannot find others who are able or willing to provide assistance.

(3) The commission is directed to investigate allegations of abuse, neglect, self-neglect or exploitation involving a vulnerable adult, to make appropriate referrals to law enforcement, and to arrange for the provision of necessary services. Further, the commission shall honor a vulnerable adult's freedom of choice and right to self-determination. When it becomes necessary for the commission to assist a vulnerable adult, actions shall be tempered by the requirements of due process and must place the fewest possible restrictions on personal freedom. Services provided under this act are also intended to provide assistance to caregiving families experiencing difficulties in maintaining functionally impaired relatives in the household.

(4) In the process of carrying out its adult protective services responsibilities, the commission is directed to make effective use of multidisciplinary services available through any and all public agencies, community-based organizations, and informal resources.

INTAKE

REPORTERS

IC 39-5301A The Health and Safety, Adult Abuse, Neglect and Exploitation Act, Declaration of Policy, states those that have a duty to report are:

physician, nurse, employee of a public or private health facility, or a state-licensed or certified residential facility serving vulnerable adults, medical examiner, dentist, osteopath, optometrist, chiropractor, podiatrist, social worker, police officer, pharmacist, physical therapist, or home care worker who has reasonable cause to believe that a vulnerable adult is being or has been abused, neglected or exploited shall immediately report such information to the commission.

Any person, including any officer or employee of a financial institution, who has reasonable cause to believe that a vulnerable adult is being abused, neglected or exploited may report such information to the commission or its providers.

Based on the extant materials, no information is available on protecting the identity of the reporters.

PRIORITIES

If a report indicates an emergency exists, the commission or provider must initiate the investigation immediately and initiate contact with the alleged vulnerable adult (within 24 hours). All other reports must be initiated within 72 hours.

INVESTIGATION

AUTHORITY

Any duly authorized commission employee or provider may, upon presentation of appropriate credentials at any reasonable time, with consent or in an emergency, enter upon any private or public property where a vulnerable adult allegedly is subject to abuse, neglect, or exploitation. When necessary, a peace officer's assistance may be requested.

IC 39-5307 The Health and Safety, Adult Abuse, Neglect and Exploitation Act, Declaration of Policy states that:

Any person, department, agency or commission authorized to carry out the duties enumerated in this chapter shall have access to all relevant records, which shall be subject to disclosure according to [chapter 1, title 74](#), Idaho Code, and shall only be divulged with the written consent of the vulnerable adult or his legal representative. No medical records of any vulnerable adult may be divulged for any purpose without the express written consent of such person or his legal representative, or pursuant to other proper judicial process.

An alleged victim may refuse entry to APS investigators. If probable cause of abuse, neglect, or exploitation exists, a commission employee or provider with the assistance of the county prosecutor may seek a search warrant.

When an adult is determined to be incapacitated, mentally ill, or developmentally disabled, the court may be petitioned for protective proceedings, the appointment of a guardian or conservator, and such other relief available.

CASE INITIATION

When a report is received, it must be screened by Information and Assistance (I&A). To be accepted by Adult Protective Services, the referral must include the Adult Protective Services Intake and Screening and supporting documentation. The allegation is then reviewed by APS to determine whether the report is required by law, if an emergency exists, or the report regards resident to resident contact. Based on this allegation review, APS will investigate if there is alleged abuse, neglect, or exploitation of a vulnerable adult.

Based on the extant materials, no information is available on who is required to be notified to initiate a case.

CONDUCTING INVESTIGATION

IC 39-5304 The Health and Safety, Adult Abuse, Neglect and Exploitation Act, Declaration of Policy states that:

An investigation must include:

- *Determination of vulnerability and associated risk factors;*
- *Determination of the nature, extent and cause of the abuse, neglect, or exploitation;*
- *Examination of evidence;*
- *Consultation with persons thought to have knowledge of the circumstances; and*
- *Identification, if possible, of the person alleged to be responsible for the abuse, neglect or exploitation of the vulnerable adult.*

When an interview (with alleged victim) is necessary it may be conducted by means of telephone conversation, in person visit, or by any other means available to the APS worker.

Vulnerability and associated risk factors are determined through assessment of an alleged victim.

- *Mental vulnerability is determined through administration of the Saint Louis University Mental Status (SLUMS) examination and may also include professional medical opinion.*
- *Physical vulnerability may be determined through direct observation, professional medical opinion, and information collected from collateral contacts.*

There is not an established timeframe for completing an investigation, but upon completing the investigation a written report should be prepared by the provider or commission employee.

DISPOSITIONS

The standard of evidence for substantiating an allegation of maltreatment is preponderance of the evidence.

When an APS worker determines the investigation is substantiated, they must immediately do one of the following:

- If the report involves abuse, neglect, or exploitation, the report must immediately be referred to law enforcement for further investigation and action.
- If the report involves self-neglect, the APS worker must initiate the appropriate referrals for supportive services. This action must be approved by the vulnerable adult or his/her legal representative.

A report of abuse, neglect, or exploitation of a vulnerable adult by another individual is deemed substantiated when, upon limited investigation and review, the APS worker perceives the report to be credible.

POST-INVESTIGATIVE SERVICES

AUTHORITY

Services are available after an investigative determination has been made. In some cases, an APS worker may determine services are also necessary in unsubstantiated reports if it's determined the vulnerable adult has unmet needs.

15.01.02.020 RULES GOVERNING ADULT PROTECTIVE SERVICES PROGRAMS states that:

In protecting the vulnerable adult population, APS is also intended to provide assistance to care giving families experiencing difficulties in maintaining functionally impaired relatives in the household.

Based on the extant materials, no information is available on service availability for perpetrators.

Clients can refuse services at any time.

APPROACH

The program Implementation Guide requires that:

If the commission or provider develops a plan of supportive services for the vulnerable adult, the plan shall provide for appropriate supportive services available to the vulnerable adult that are least restrictive to personal freedom and shall provide encouragement for client self-determination and continuity of care.

15.01.02.020.032 RULES GOVERNING ADULT PROTECTIVE SERVICES PROGRAMS. The Provider shall close a case under the following circumstances:

- a. The Provider shall close a substantiated case upon a determination that an initiated PAP or law enforcement involvement has successfully reduced the risk to the vulnerable adult.
- b. The Provider may close a substantiated case when the vulnerable adult refuses to consent to receive services, or upon a determination that the Provider has implemented all measures available to reduce risk but has been unable to reduce risk.
- c. A case will be closed if the Provider determines that an allegation has been made in bad faith or for a malicious purpose.

QUALITY ASSURANCE

A Supervisor or designated reviewer must conduct a review of every closed case with a determination of substantiated abuse, neglect, or exploitation of a vulnerable adult prior to sending the report of findings to the Department or Law Enforcement.

A Supervisor or designated reviewer must conduct a review on a percentage of each APS worker's unsubstantiated, closed cases of abuse, neglect, exploitation, or self-neglect of a vulnerable adult.

AAA APS programs receive on site program reviews by the ICOA. AAA's also have the following reporting schedule to the ICOA according to the Program Manual:

- *The AAAs will submit the Substantiated Case report to the ICOA no later than the 10th of each month*

- *The ICOA will submit State ICOA annual report to the Governor's office State by December 1st*

Illinois

Name of Agency	Illinois Department on Aging
Name of Program	Adult Protective Services Program
Data Sources	APS Manual NAMRS Agency Component Data FFY2020 Report

CONTEXT

ADMINISTRATION

The Illinois Adult Protective Services Program operates under Title 20 Chapter 320 of the Illinois Act. It is a state-run program within the Illinois Department on Aging (IDoA) and is locally administered through 40 provider agencies, which are selected by the IDoA and the Regional Administrative Agencies (RAAs) and approved by IDoA. It is intended to help adults with disabilities and older adults who are victims of abuse, neglect, financial exploitation and/or self-neglect (ANE/SN) by building on the current legal, medical, and social service system to assure that it is more receptive to the needs of ANE/SN victims and their families. An APS Provider Agency (PA) may be any public or not-for-profit agency including both aging and social services agencies.

SCOPE

The APS statute was designed to protect against the abuse, neglect, and exploitation of Illinois' most vulnerable population. To be eligible for the Act's protections, the alleged victim must be 60 years or older or be a disabled adult between the ages of 18 and 59. The Act defines a disability as "a physical or mental disability, including but not limited to, a developmental disability, an intellectual disability, a mental illness as defined under the Mental Health and Developmental Disabilities Code, or dementia as defined under the Alzheimer's Disease Assistance Act." (320 ILCS 20/2).

APS receives reports through the IDoA's Senior Helpline and also through its provider agencies. All reports of ANE/SN are reviewed by staff to determine whether an intake should be opened, and an investigation should be initiated. In order for a report of ANE/SN to be categorized as an intake the following must be true:

- the alleged victim must be 60 years or older or an adult between 18-59 with a disability.
- the allegations, if true, would constitute ANE/SN.

- the alleged ANE/SN must have occurred within the past 12 months, or, if the ANE/SN occurred prior to outside this timeframe, the effects of the abuse must continue to adversely affect the alleged victim.
- the alleged victim must reside in a domestic setting at the time of the report*.
- the alleged ANE/SN must have been caused by an identifiable person (other than the alleged victim) who has continued access to the alleged victim.

* APS may investigate allegations of ANE for an alleged victim residing in a long-term care facility or other institution. The alleged ANE must occur outside of the facility and not under the facility's supervision and the alleged abuser must be a non-employee of the facility and have a continuing relationship with the adult.

The APS investigates physical abuse, sexual abuse, emotional abuse, confinement, willful deprivation, passive neglect, and self-neglect.

- Physical Abuse means causing the infliction of physical pain or injury to an eligible adult.
- Sexual Abuse means touching, fondling, sexual threats, sexually inappropriate remarks, or any other sexual activity with an eligible adult when he or she is unable to understand, unwilling to consent, threatened, or physically forced to engage in sexual behavior.
- Emotional Abuse means verbal assaults, threats of maltreatment, harassment, or intimidation intended to compel the eligible adult to engage in conduct from which he or she wishes and has a right to abstain, or to refrain from conduct in which the eligible adult wishes and has a right to engage.
- Confinement means restraining or isolating, without legal authority, an eligible adult for other than medical reasons, as ordered by a physician.
- Financial Exploitation means the use of an eligible adult's resources by another to the disadvantage of that adult or the profit or advantage of a person other than that adult.
- Neglect means another individual's failure to provide an eligible adult with or willful withholding from an eligible adult the necessities of life including, but not limited to, food, clothing, shelter or health care.
 1. Passive Neglect means another individual's failure to provide an eligible adult with the necessities of life including, but not limited to, food, clothing, shelter, or medical care because of failure to understand the eligible adult's needs, lack of awareness of services to help meet needs, or a lack of capacity to care for the eligible adult. This definition does not create any new affirmative duty to provide support to eligible adults; nor shall it be construed to mean that an eligible adult is a victim of neglect because of health care services provided or not provided by licensed health care professionals. Abandonment can be classified under Passive Neglect.
 2. Willful Deprivation means deliberate denial of medications, medical care, shelter, food therapeutic devices, or other physical assistance to a person who, because of

age, health, or disability, requires such assistance and thereby exposes that person to the risk of physical, mental, or emotional harm because of such denial: except with respect to medical care or treatment when the dependent person has expressed an intent to forego such medical care or treatment and has the capacity to understand the consequences.

3. Abandonment can be classified under Willful Deprivation.

- Self-neglect means a condition that is the result of an eligible adult's inability, due to physical or mental impairments, or both, or a diminished capacity, to perform essential self-care tasks that substantially threaten his or her own health, including: providing essential food, clothing, shelter, and health care; and obtaining goods and services necessary to maintain physical health, mental health, emotional well-being, and general safety. The term includes compulsive hoarding, which is characterized by the acquisition and retention of large quantities of items and materials that produce an extensively cluttered living space, which significantly impairs the performance of essential self-care tasks or otherwise substantially threatens life or safety.

CONFIDENTIALITY

APS Act states all records concerning reports of ANE or self-neglect and all records generated by such reports are confidential and shall not be disclosed except under specific circumstances authorized by law. Information about the qualified adult's matters should only be shared as authorized by the eligible adult or a guardian or others as permitted by law. The reporter's identity is kept confidential and, by law, may not be revealed except by court order or by written consent from the reporter.

The APS Act (320 ILCS 20/8) grants access to:

- (1) Department staff, provider agency staff, other aging network staff, and regional administrative agency staff, including staff of the Chicago Department on Aging while that agency is designated as a regional administrative agency, in the furtherance of their responsibilities under this Act;
- (1.5) A representative of the public guardian acting in the course of investigating the appropriateness of guardianship for the eligible adult or while pursuing a petition for guardianship of the eligible adult pursuant to the Probate Act of 1975;
- (2) A law enforcement agency or State's Attorney's office investigating known or suspected abuse, neglect, financial exploitation, or self-neglect. Where a provider agency has reason to believe that the death of an eligible adult may be the result of abuse or neglect, including any reports made after death, the agency shall immediately provide the appropriate law enforcement agency with all records pertaining to the eligible adult;

(2.5) A law enforcement agency, fire department agency, or fire protection district having proper jurisdiction pursuant to a written agreement between a provider agency and the law enforcement agency, fire department agency, or fire protection district under which the provider agency may furnish to the law enforcement agency, fire department agency, or fire protection district a list of all eligible adults who may be at imminent risk of abuse, neglect, financial exploitation, or self-neglect;

(3) A physician who has before him or her or who is involved in the treatment of an eligible adult whom he or she reasonably suspects may be abused, neglected, financially exploited, or self-neglected or who has been referred to the Adult Protective Services Program;

(4) An eligible adult reported to be abused, neglected, financially exploited, or self-neglected, or such adult's authorized guardian or agent, unless such guardian or agent is the abuser or the alleged abuser;

(4.5) An executor or administrator of the estate of an eligible adult who is deceased;

(5) In cases regarding abuse, neglect, or financial exploitation, a court or a guardian ad litem, upon its or his or her finding that access to such records may be necessary for the determination of an issue before the court. However, such access shall be limited to an in-camera inspection of the records, unless the court determines that disclosure of the information contained therein is necessary for the resolution of an issue then pending before it;

(5.5) In cases regarding self-neglect, a guardian ad litem;

(6) A grand jury, upon its determination that access to such records is necessary in the conduct of its official business;

(7) Any person authorized by the Director, in writing, for audit or bona fide research purposes;

(8) A coroner or medical examiner who has reason to believe that an eligible adult has died as the result of abuse, neglect, financial exploitation, or self-neglect. The provider agency shall immediately provide the coroner or medical examiner with all records pertaining to the eligible adult;

(8.5) A coroner or medical examiner having proper jurisdiction, pursuant to a written agreement between a provider agency and the coroner or medical examiner, under which the provider agency may furnish to the office of the coroner or medical examiner a list of all eligible adults who may be at imminent risk of death as a result of abuse, neglect, financial exploitation, or self-neglect;

(9) Department of Financial and Professional Regulation staff and members of the Illinois Medical Disciplinary Board or the Social Work Examining and Disciplinary Board in the

course of investigating alleged violations of the Clinical Social Work and Social Work Practice Act by provider agency staff or other licensing bodies at the discretion of the Director of the Department on Aging;

(9-a) Department of Healthcare and Family Services staff and provider agency staff when that Department is funding services to the eligible adult, including access to the identity of the eligible adult;

(9-b) Department of Human Services staff and provider agency staff when that Department is funding services to the eligible adult or is providing reimbursement for services provided by the abuser or alleged abuser, including access to the identity of the eligible adult;

(10) Hearing officers in the course of conducting an administrative hearing under this Act; parties to such hearing shall be entitled to discovery as established by rule;

(11) A caregiver who challenges placement on the Registry shall be given the statement of allegations in the abuse report and the substantiation decision in the final investigative report; and

(12) The Illinois Guardianship and Advocacy Commission and the agency designated by the Governor under Section 1 of the Protection and Advocacy for Persons with Developmental Disabilities Act shall have access, through the Department, to records, including the findings, pertaining to a completed or closed investigation of a report of suspected abuse, neglect, financial exploitation, or self-neglect of an eligible adult.

GUIDING PRINCIPLES

The guiding principles of the APS program include the following:

- **Advocacy Intervention Model:** IL implemented an Advocacy Intervention Model that includes principles to guide the intervention, based on recognition that the victim of ANE/SN is an adult in a vulnerable position. Under this model, the responsible agency assists the victim through interventions on their behalf and serves as an advocate. As an advocate, the APS PA ensures that the rights of the adult are upheld while providing assistance in obtaining needed legal, medical, and social service supports.
- **Limited Mandatory Reporting:** IL adopted a law that combines voluntary reporting and mandatory reporting of suspected cases of ANE/SN. The law requires that certain persons who provide services to older adults and adults with disabilities, including health professionals, Aging Network personnel and others, must report to the APS Program any suspicions of ANE/SN of eligible adults who, because of a disability or other condition or impairment, cannot report for themselves. The law also encourages

persons to report voluntarily and provides immunity from liability for anyone making such an ANE/SN in good faith.

- Self Determination: The concept of self-determination adopted by the IL APS Program includes certain civil rights to which competent adults are entitled. These rights do not diminish with age or disability. Competent adults have the right to decide how they will live; choose whether to accept social services or other community assistance; and make decisions different from those a reasonable adult would make, including “bad” decisions, which are not harmful to others. When an adult with a disability or older adult is incapable of protecting themselves, under the law that person has the right to have protective measures taken on their behalf.
- Health, Welfare and Safety Under section 1915c of the Social Security Act, successful waivers must provide assurances to Centers for Medicare and Medicaid Services (CMS) that the state has implemented necessary safeguards to protect the health and welfare of participants receiving services. The Illinois Department on Aging and its Office of Adult Protective Services works to assure:
 - a. Adequate program standards and procedures are in place
 - b. License/certification standards are met including APS statute, administrative rules, and standards/ procedures
 - c. Ability to meet the unique service needs of adults who are among different target groups
 - d. Services are provided for in-home and community-based settings
 - e. System for tracking services to prevent future incidents of abuse, neglect and exploitation
 - f. Use of data to prevent future incidents
- Intervention Principles: The best practices should be followed by the caseworker to support the adult's right to self-determination:
 - Involve the older or disabled person in the development of the intervention or case plan. Take the time to explain the range of legal, medical, and social service options to them, beginning with the least restrictive alternatives in treatment and placement so that they exercise their maximum decision- making ability for his or her competence.
 - Consult with the family unit support system whenever possible. Often abused eligible adults live with a family member or receive some form of care from the family.

- Assist the individual to live in the most independent setting.
- Be direct in discussing the situation, the alternatives, and the consequences.
- Respect the eligible adult's right to confidentiality. Information about the eligible adult's affairs should only be shared as authorized by the eligible adult or a guardian or others as permitted by law.
- Recognize that inadequate or inappropriate intervention may be more harmful than none and may greatly increase the risk to eligible adult.
- The eligible adult's interests are to be the first concern of the program. Their welfare comes before that of family members or citizens of the community. The safety of the older adult or adult with disability is the foremost concern when they are unable to decide or act on their own behalf.

INTAKE

REPORTERS

Illinois law combines voluntary reporting and mandatory reporting of suspected cases of ANE/SN. This combination limits an individual's responsibility to reporting only for those individuals who are unable to seek assistance for themselves. Persons who offer services to older adults and adults with disabilities, including health professionals, Aging Network personnel and others, must report to the APS Program any suspicions of ANE of eligible adults.

Any of the following persons engaged in carrying out their professional duties are mandatory reporters:

- A professional or professional's delegate while engaged in social services, the care of an eligible adult or eligible adults, education, law enforcement, any licensed health practitioner.
- An employee of an entity providing developmental disabilities services or service coordination funded by the department of human services;
- An employee of a vocational rehabilitation facility prescribed or supervised by the department of human services;
- An administrator, employee, or person providing services in or through an unlicensed community-based facility;
- Any religious practitioner who provides treatment by prayer or spiritual means alone in accordance with the tenets and practices of a recognized church or religious denomination, except as to information received in any confession or sacred communication enjoined by the discipline of the religious denomination to be held confidential;

- Field personnel of the department of healthcare and family services, department of public health, and department of human services, and any county or municipal health department;
- Personnel of the department of human services, the guardianship and advocacy commission, the state fire marshal, local fire departments, the department on aging and its subsidiary area agencies on aging and provider agencies*, and the office of state long term care ombudsman;
- Any employee of the state of Illinois not otherwise specified herein who is involved in providing services to eligible adults, including professionals providing medical or rehabilitation services and all other persons having direct contact with eligible adults;
- A person who performs the duties of a coroner or medical examiner;
- A person who performs the duties of a paramedic or an emergency medical technician.

Attorneys, including legal services providers and bankers are exempt from mandatory reporting.

The reporter's identity is kept confidential and, by law, may not be revealed except by court order or by written consent from the reporter.

PRIORITIES

The APS Program established categories of priorities for the establishment of assessment services. Based on these priorities and the prospect of harm to the alleged victim, time frames for beginning the assessment and performing a face-to-face interview with the alleged victim have been established. The priority assigned to the report will regulate the timeframe for requiring an Adult Protective Services Case Worker (APSCW) to try to make a face-to-face visit with the alleged victim.

The agency receiving the report of ANE/SN shall assign a priority to the report according to the following criteria:

- Priority one: Timeframe—within twenty-four hours of the intake of the report. Reports of abuse or neglect where the alleged victim is reported to be in imminent danger of death or serious physical harm. Priority one intake reports include, but are not limited to reports in which the following circumstances have been alleged by the reporter:
 - Physical abuse, such as fractures, head injuries, internal injuries, or burns when the reported injury is of a serious nature (e.g., such as to require medical treatment or death may result);
 - Verbal threats of serious injury or death;
 - Lack of basic physical necessities severe enough to result in freezing, serious heat stress, or starvation;

- There is a need for immediate medical attention to treat conditions that could result in irreversible physical damage such as unconsciousness, acute pain, and severe respiratory distress;
- Alleged sexual abuse that has occurred within the last 72 hours;
- Threats of sexual abuse where the alleged abuser has access to the alleged victim; and
- Punishment by the alleged abuser, such as being locked in a closet.
- Priority two: Timeframe: within seventy-two hours of the intake of the report. Reports that an alleged victim is being abused, neglected, or financially exploited and the report taker has reason to believe that the health and safety consequences to the alleged victim are less serious than priority one reports. Priority two intake reports include, but are not limited to, reports in which the following circumstances have been alleged by the reporter:
 - Physical abuse involving bruises or scratches;
 - Verbal threats of physical harm;
 - Inadequate attention to physical needs such as insufficient food, shelter or medicine;
 - Unreasonable confinement; and
 - The probability of a rapid or complete liquidation and depletion of an alleged victim's income and assets.
- Priority three: Timeframe: within 7 calendar days of the intake of the report. Reports that an alleged victim is being emotionally abused or the alleged victim's financial resources are being misused or withheld and the report taker has reason to believe that there is no immediate or serious threat of harm to the alleged victim.

INVESTIGATION

AUTHORITY

The APS PA shall request assistance from law enforcement to perform the initial face-to-face visit if the Intake Report indicates a serious and immediate threat to the alleged victim, that the situation will pose a serious and immediate threat to the APSCW, or that law enforcement involvement is necessary to preserve the peace. The investigation will commence by initiating face-to-face contact with the alleged victim within established timeframes. Some provider agencies within Illinois have written agreements with law enforcement that allow the provider to furnish law enforcement with a list of vulnerable adults who are at risk of ANE/SN. This allows the two entities to share information and allows law enforcement to notify the APS PA if they receive a call to the home. These agreements also include coroners to assist in the investigation of suspicious deaths.

An alleged victim, who has capacity, can refuse an investigation. If the alleged victim seems to be at risk of serious injury or death and it reasonably appears that they lack the capacity to consent to necessary services, the APS PA shall provide services to the alleged victim without the alleged victim's consent to ameliorate the risk of harm. The alleged victim's consent or the consent of the alleged victim's guardian is mandatory for all other services, with few exceptions. Immediate involuntary interventions may include, but not be limited to early intervention services (EIS); medical care; law enforcement intervention; Orders of Protection; restraining orders; court ordered assets freeze; and any other service or resource arranged by the APSCW to meet the needs of the alleged victim.

A court ordered assets freeze by the APS agency, is used in situations where the alleged abuser is about to take control of some portion of the victim's assets. This is a temporary measure to prevent theft, depletion, or conversion.

According to the APS Act (320 ILCS 20/13), "A representative of the Department or a designed provider agency involved in abuse, neglect, financial exploitation, or self-neglect investigation under this Act shall be allowed access to the financial records, mental and physical health records, and other relevant evaluative records of the eligible adult which are in the possession of any individual, financial institution, health care provider, mental health provider, educational facility, or other facility, if necessary, to complete the investigation mandated by this Act." The Act goes on to state, "Where access to an eligible adult is denied, including the refusal to provide requested records, the Office of Attorney General, the Department, or the provider agency may petition the court for an order to require appropriate access..."

CASE INITIATION

The APS supervisor must be involved in guiding and leading ANE/SN cases and share accountability in the APSCW's decisions and actions. They oversee assigning an APSCW to each ANE Intake Report received. When a report taker receives a call, or visit regarding alleged ANE/SN, the authorized agency will use the information to convey the report to the proper APS PA for assessment services. An agency that is not an APS Provider Agency, such as the Department's Senior Helpline, shall forward the report to the appropriate APS provider agency within two hours of the intake. Prior to conducting the initial face-to-face, an APSCW must meet with his/her program supervisor for staffing and completion of the Preparation for Assessment form. The APSCW must also reach out to the reporter. Collateral contacts are made after obtaining client consent to any individual with information regarding the allegations. Collateral contact is made without client consent when the APSCW is working in the client's best interest or responding to an allegation regarding a paid caregiver.

Initiation of the investigation begins at the initial face-to-face. With few exemptions, the face-to-face must occur within the established timeframes based upon priority:

Priority 1: 24 hours

Priority 2: 72 hours

Priority 3: 7 calendar days

For ANE cases where the alleged abuser is a paid caregiver, the APSCW must make a good faith attempt to interview the alleged abuser. Illinois law also mandates that for the safety of the alleged victim, where access to the alleged victim is blocked, or when the alleged abuser is a paid caregiver, collateral contact must be attempted. For all other cases, the APSCW must make a good faith attempt to contact the reporter prior to initial contact with the alleged victim and the APSCW must make an attempt at obtaining permission to speak with collaterals. If the APSCW becomes aware that the alleged victim receives services from the Department of Human Services Division of Developmental Disabilities or Department of Rehabilitation Services a Managed Care Organization, or the Department on Aging, the APSCW must send a Notice of Investigation, continue coordination of care, and provide a Report of Substantiation when a finding is reached.

CONDUCTING INVESTIGATION

Depending on the alleged victim's situation (for example the case notes indicate that the alleged victim's competency is questioned, or the alleged victim appears depressed), a comprehensive assessment of alleged victim's total situation should include a The Folstein Mini-Mental State Examination, and may include a Yesavage Geriatric Depression Scale, and other similar assessment tools.

The Department has developed the following tools to assist in the investigation process:

- ANE Intake Form – form used by APS Intake workers for receipt of a report of suspected or alleged abuse, neglect or exploitation of an eligible adult.
- Client Status Form – Tool used by APS caseworkers as a summary of relevant case information collected in one place. Includes such information as Client personal information, involved agencies/professionals, client living arrangements and relationships, client medical history and barriers, and client income and banking information.
- Overall Initial Risk Assessment – Tool used by APS caseworkers to list factors/variables on which the risk assessment could be based, ensure uniform/systematic method of assessing risk, brief assessment tool to evaluate the person and their environment, increase accuracy of all decisions revolving around risk assessment, make decisions based on facts rather than feelings, and provide caseworkers and supervisors a means for pertinent case information to share with other staff who assist in evaluation of the client's needs.
- Client Assessment Form – Tool used by APS caseworkers to use after completion of the assessment process to indicate a decision about the abuse, neglect, financial

exploitation or self-neglect that was reported or suspected during the assessment. Includes such information as: substantiation decision, indicators of abuse/neglect/exploitation/self-neglect, refuting/supporting facts of the allegations, and abuser information.

The ANE/SN assessment must be finalized and the report classified within thirty days from the date of the intake. A 15-day extension may be made available based upon established criteria and as approved by the program supervisor.

DISPOSITIONS

The standard of evidence for substantiating an allegation of maltreatment is preponderance of evidence.

Each Initial Intake Report (IIR) and Subsequent Intake Report (SIR) report must be classified as follows:

- Substantiated if all of the specific allegations of ANE/SN were classified as either:
 - Verified which indicates that there is clear and convincing evidence resulting in a determination that the specific injury or harm alleged was the result of ANE/SN; or
 - Some indication which that there is a preponderance of the evidence the specific injury or harm alleged was the result of ANE/SN.
- Unsubstantiated if each of the specific allegations of ANE/SN were classified as no indication, which indicates that there is a lack of credible evidence that ANE/SN exists. Unless the reason for the no indication finding was that the APSCW was unable to substantiate for one of the reasons listed below.
- Unable to substantiate if there was a finding of any of the following circumstances:
 - No Jurisdiction—The APS PA had no jurisdiction to initiate an assessment of the ANE report according to the Adult Protective Services Act. No jurisdiction classifications would occur when the alleged victim was determined not to be an eligible adult or was not living in a domestic living situation.
 - Unable to Locate—After documented good faith efforts, the APS PA was unable to locate the alleged victim.
 - Unable to Access—After documented good faith efforts to gain access to the alleged victim including those listed in Section 506, the APS PA was unable to access the alleged victim.
 - Assessment Refused—After documented good faith efforts, the alleged victim declined assessment.

The IDoA shall establish rules regarding notice to the caregiver in cases of a confirmed and substantiated finding of ANE against them that may make them eligible for placement on the Registry. As part of its investigation, the Department on Aging shall notify an eligible adult, or an eligible adult's guardian or agent, that their caregiver's name may be cited on the Registry based on certain findings.

The APS Registry identifies caregivers against whom a verified and substantiated finding was made under this Act of ANE. The information in the Registry shall be confidential except as specifically authorized in this Act and shall not be considered public record. The IDoA reports the identity of the caregiver to the Registry when a verified and substantiated finding of ANE of an eligible adult under this Act is made against a caregiver, and all appeals, challenges, and reviews, if any, have been finalized and a finding for placement on the Registry has been maintained. A finding against a caregiver that is placed in the Registry shall prevent that caregiver from providing direct care in a position with or that is controlled by or paid with public funds from the IDoA, the Department of Healthcare and Family Services, the Department of Human Services, or the Department of Public Health or with an entity or provider licensed, certified, or regulated by or paid with the public funds from any of these State agencies.

In addition, APS will notify client providers including the Department of Developmental Disabilities, Division of Rehabilitation Services, Aging service providers, and Managed Care Organizations of all outcomes. Information is provided to the alleged abuser only when the case involves placement on the Registry. Collateral contacts and reporters are not informed of outcomes.

POST-INVESTIGATIVE SERVICES

AUTHORITY

The APSCW organizes immediate intervention services to resolve the alleged victim's immediate problems before classification of the report and assigning the closing status.

The APS PA shall provide case work activities to victims of ANE whose closing assessment status was substantiated with "consent to services" and when the victim was the subject of:

- an Initial Intake Report (IIR); or
- a Subsequent Intake Report (SIR), when the case was no longer active at the time the report was taken

APS will also provide services to the alleged abuser in an attempt to reduce risk factors of abuse. Services are not typically offered to family members not directly involved in the allegation.

The provision of Case Work always takes into account client self-determination. The concept of self-determination comprises certain civil rights to which competent adults are permitted. These rights do not lessen with age or disability. Competent adults have the right to decide where and how they will live and choose whether to accept social services or other community help. If a victim who can give consent declines all services offered, the APS PA shall close the case; however, the agency shall inform the victim of ways to contact the APS PA in the future.

APPROACH

Casework activities minimally include: Counseling the victim and/or the abuser(s) on how to prevent future abuse, working with the eligible adult on the development and implementation of a case plan for the purpose of stabilizing the situation and reducing risk of further harm to the eligible adults, and potentially accessing EIS funds. The case plan could include legal, medical social service and/or other assistance needed.

An individual may be eligible for funding to assist in reducing ANE/SN risk factors. To be eligible to receive EIS funds, persons must meet the following criteria:

- there is an eligible adult aged 18-59 with a disability or there is an eligible adult 60 years or older;
- there is an alleged or substantiated case of ANE involving the eligible adult;
- there is an imminent threat to the health and safety of the eligible adult if the service is not available; and
- the community services and resources available for the eligible adult cannot be mobilized in a timely manner, would be insufficient to protect the eligible adult's health or safety, or the eligible adult's resources are insufficient or unavailable to purchase needed services.

The APS PA shall close a case when the victim refuses services, is no longer at risk of ANE, has moved out of the area, or is deceased. The APS PA may close the case within 10 calendar days after a face-to-face visit where an Overall Risk Assessment Update was completed, if the Risk Assessment score shows the victim is at no or low risk of further injury or harm.

The APS PA shall administratively close the case when the victim has received “uninterrupted” follow-up services for 12 months. If the APS PA requests and the Department approves a waiver, follow-up services will be provided for up to an additional 12 months.

APS polices do not address, person-centered or trauma-informed approaches,

In developing a case plan, the plan shall include alternative suggested or recommended services which are appropriate to the needs of the eligible adult and which involve the least restriction of the eligible adult’s activities commensurate with his or her needs. [Adult Protective Services

Act – Section 5(a)]. The individual’s case plan should be based upon the least restrictive interventions for legal, medical, and social service interventions.

QUALITY ASSURANCE

The APS supervisor must be involved in guiding and directing ANE/SN cases and share responsibility in the APSCW's decisions and actions. APS supervisor activities shall include general supervision of all daily service delivery aspects of the program; assigning an APSCW to each ANE/SN Intake Report received; discussing each ANE/SN Intake Report requiring an assessment with the assigned APSCW to develop strategies for initiating the investigation; discussing assessment results with the APSCW and approving, signing and dating the Client Assessment Form; discussing the initial, substantiated, and each three-month risk assessment and case plan with the APSCW to ensure that appropriate actions are being taken to meet identified problems/needs and closure risk assessments; discussing referrals to law enforcement and the coroner regarding suspicious deaths of eligible adults; reviewing and approving the expenditure of EIS funds; reviewing and approving the expenditure of EIS funds before referral for services; approving, signing, and dating case closures to ensure that cases are closed according to the requirements specified in this Manual; ensuring that supervisory consultation on individual cases is documented in the Case Recording Form.

The RAA shall keep any case records for ten full years after the date of the final payment on the case. After the ten-year period, the case records may be purged. All documentation must comprise clear, concise, objective, accurate, and complete information concerning the assessment; the findings of the APS PA; the casework; and follow-up and all decisions and actions that occur in a case. The case record shall minimally contain ANE Intake Form Client Assessment Form; ANE Overall Initial Risk Assessment Form; Preparation for the Assessment/Case Recording Form; Client Status Form, abuser forms, and the Case Activity Tracker. The case record of some indication or confirmed substantiated reports shall also comprise the following: Overall Substantiated Risk Assessment Form; Overall Risk Assessment Update Form; Case Plan Form; and Case Closure form.

Every APS PA is required to complete an annual peer review between July 1 -December 31. Both APS caseworkers and supervisors conduct the review of case records. Each RAA shall complete a Regional Administrative Agency/Annual Program Operations Case Review for every APS PA located in its service area by reviewing a sample of case records at each agency. The RAAs shall be responsible for scheduling the peer review. The RAA shall notify the APS PA's of the timeline for the peer review. The APS PA will be given thirty days in which to complete the peer review. The RAAs shall select the specific case records to be reviewed. The size of the sample of case records to be reviewed will be determined according to IDoA protocol. RAAs are also responsible for completing a Periodic Program Operations Administrative Review every

three years for providers in good standing or annually for those failing to meet administrative criteria.

Department staff complete quality reviews every three years for each provider agency scoring at approved levels. Agencies performing below standards may be subject to a Corrective Action Plan which is monitored by the provider's Program Coordinator. The Corrective Action Plan may include more frequent Quality Reviews.

Indiana

Name of Agency	Division of Aging
Name of Program	Adult Protective Services
Data Sources	NAMRS Agency Component Data FFY2020 Report Indiana Administrative Code, Rule 2 Adult Protective Services

CONTEXT

ADMINISTRATION

The Indiana Adult Protective Service Program operates under Title 12, Article 10, Chapter 3 of the Indiana Code and 455 Indiana Administrative Code 1-2. The Division of Aging in the Family and Social Services Administration oversees the state of Indiana APS program. The program is administered in 17 regional units in which investigators are county employees who work for a county prosecutor. The Adult Protective Services (APS) program was established to investigate reports and provide intervention and protection to endangered adults who are victims of battery, neglect, or exploitation. If the APS unit has reason to believe that an individual is an endangered adult, the APS unit shall investigate the complaint or cause the complaint to be investigated by law enforcement or other agency and make a determination as to whether the individual reported is an endangered adult. Upon determination APS will initiate a service plan based on an evaluation of the needs of the endangered adult, coordinate the least restrictive protective services available, and monitor the services to determine the effectiveness. An endangered adult in Indiana an individual must be a resident of the state of Indiana, 18 years of age or older, physically, or mentally incapacitated and reported as abused, neglected, or exploited.

SCOPE

The APS program accepts reports regarding any endangered adult, meaning an individual who is 18 or older and is incapable of self-care or managing his or her own property due to mental illness, intellectual disability, dementia, habitual drunkenness, excessive use of drugs, or other physical or mental incapacity, and who is harmed or threatened with harm due to neglect, battery, or exploitation. Individuals who are endangered due to their own inability to care for themselves and are without assistance, are included.

Nothing in statute prevents APS from investigating individual reports in facilities. Typically, however, facility-wide complaints are investigated by the Department of Health. When a report concerns an individual, who is a resident of a facility licensed under Indiana Code 16-28, the

Division of Aging and the APS unit shall notify the Department of Health immediately, in accordance with Indiana Code 16-28-4-1 and 12-10-3-17 and cooperate with the Department of Health in carrying out the remaining activities of the case. The Division of Aging and the APS unit should notify each other when a report has been referred to the Department of Health.

The APS program investigates battery, neglect, self-neglect, and exploitation of the individual's personal services or property. Based on the extant materials, no additional information is available on maltreatment types.

CONFIDENTIALITY

Reports and any other information obtained, reports written, photographs, or recordings are considered confidential. The APS unit maintains procedures for appropriate access to and safeguarding of the confidentiality of records. The endangered adult has the right to privacy and confidentiality.

GUIDING PRINCIPLES

Based on the extant materials, no information is available on the APS program's key ethical principles or standards of integrity.

INTAKE

REPORTERS

All persons are required by law to report suspected abuse, neglect, or exploitation to either the statewide toll free 1-800 number, the nearest local APS office or law enforcement agency, or the online reporting tool; thus, all citizens are mandatory reporters rather than only people in certain positions or professions.³

The identity of the reporting person is kept confidential and disclosed only with the written consent of that person or by judicial process. The identity of the person who made the report is never disclosed to an alleged abuser, except by judicial order.

PRIORITIES

When reports of battery, neglect, and exploitation are received, an investigation should begin immediately when the possibility of physical danger to the adult exists. Otherwise, the investigation should begin as soon as possible after receipt of a report, within twenty calendar days.

³ <https://www.in.gov/fssa/da/3479.htm>

INVESTIGATION

AUTHORITY

The purpose of the adult protective services program is to provide a legal basis for intervention to protect endangered adults within the state of Indiana by receiving reports regarding adults who may be endangered, investigating those reports and providing a coordinated and proper local response to individual cases as they are substantiated. Responsibility for investigating reports of neglect, battery, or exploitation of endangered adults, as well as for securing the appropriate social, medical, and legal intervention, rests with adult protective services units who are contracted with the Division of Aging. Authority through IC 12-10-3 and code 455 IAC 1-2-1 Purpose Authority: IC 12-9.1-2-3 Affected: IC 12-10-3; IC 35-42-2-1; IC 35-46-1-13.

CASE INITIATION

The 17 regional units each apply their own policies for accepting reports for investigation. In general, if the intake person has reason to believe, based on information provided in the report, that an adult is endangered, the report will be accepted. Units have 20 days from the receipt of the report to begin an investigation. If immediate danger exists, they will call 911.

CONDUCTING INVESTIGATION

State policy does not require a systematic client assessment; assessment instruments are determined by each unit or left to the worker's discretion.

APS should seek cooperation from other public and private agencies and entities in the geographic services region which offer services, as may be needed by endangered adults. All appropriate governmental agencies should coordinate services to endangered adults and share information concerning the allegation of battery, neglect, exploitation, or endangerment as requested by each other, except to the extent that the information is otherwise protected under state or federal law.

According to the NAMRS Agency Component report, while there is no standard timeframe for completing an investigation, the average duration of a case in 2020 was 19.5 days.

Upon 72 hours after the initial visit with the alleged victim documentation of the investigation shall be entered into the CMS, this is per contract.

Based on the extant materials, no information is available on requirements for professionals and organizations, such as banks and health care providers, to provide APS staff with access to records.

DISPOSITIONS

State policy does not have a standard of evidence for substantiating an allegation of maltreatment in an APS investigation.

Disposition categories of APS investigations are substantiated (endangerment was established to the satisfaction of the APS unit as relates to the definition of an endangered adult) or unsubstantiated (endangerment of an individual was not established to the satisfaction of the APS unit).

If the report is unsubstantiated after initial investigation, proper notification should be made to concerned parties, at the discretion of the APS unit.

Based on the extant materials, no information is available on legal consequences for substantiated perpetrators in APS investigations.

POST-INVESTIGATIVE SERVICES

AUTHORITY

A service plan is provided in writing to the endangered adult, which includes a statement of the problem, one or more goal statements, a description of the desired state of client functioning, identification of the appropriate and least restrictive services, the frequency and duration of anticipated service delivery, and the manner in which effectiveness of the services will be monitored and evaluated.

If the endangered adult does not consent or has withdrawn consent to receive protective services and a petition has been filed in probate court, the endangered adult is entitled to be represented by counsel and to have the court appoint counsel, if he or she cannot afford it.

If the endangered is competent, he or she has the right to refuse protective services. The APS unit should make every effort to fully inform the endangered adult of the benefits of protective services, and the problems that could be exacerbated if protective services are refused.

APPROACH

The endangered adult has the right to protective services that offer the least restrictive alternative.

As of state fiscal year 2018, funds were allocated to each regional unit for the procurement and facilitation of emergency services and housing for endangered adults who are experiencing a “life threatening emergency” as defined in Indiana Code 12-10-3-2 and Indiana Code 12-10-3-4.

Based on the extant materials, no information is available on timeliness and other criteria for case closure.

QUALITY ASSURANCE

For substantiated reports, the Division of Aging and the APS units maintain identifying records including reports which identify the endangered adult, types of protective services provided, identity of the service provider(s), and the names of agencies, persons, or institutions who are determined to be responsible for the neglect, battery, or exploitation. For unsubstantiated reports, the Division of Aging receives all identifying records concerning unsubstantiated reports from the APS units. Non-identifying statistical records are maintained for unsubstantiated reports.

Iowa

Name of Agency	Iowa Department of Human Services
Name of Program	Adult Protective Services
Data Sources	Dependent Adult Abuse: Guide for Mandatory Reporters (July 2010) NAMRS Agency Component Data FFY2020 Report

CONTEXT

ADMINISTRATION

The Iowa Department of Human Services (DHS) is authorized in Iowa Code Chapter 235B, to accept reports of suspected dependent adult abuse, evaluate those reports, complete an assessment of needed services, make referrals for services, and uphold a central registry of abuse information. The APS program is administered by the state, through DHS. The DHS protective services unit that serves the county where the dependent adult's home is located completes the dependent adult abuse evaluation or assessment.

SCOPE

APS investigates abuse of "dependent adults", defined as people who are aged 18 or over and are incapable of adequate self-care due to physical or mental conditions and need assistance from other people. Dependent adults may be older adults or may have reduced physical or mental capacities that prevent them from meeting their own needs sufficiently. "Dependent adult abuse" includes exploitation of either finances or resources, physical abuse (including assault and unreasonable confinement or punishment), sexual abuse, denial of critical care, and personal degradation as the result of the willful or negligent acts or omissions of a caretaker. "Dependent adult abuse" is also defined as the sexual exploitation of a dependent adult by a caretaker. Lastly, "dependent adult abuse" includes denial of critical care due to the adult's own actions.

DHS has legal authority to do evaluations and assessments of alleged dependent adult abuse that ensues in the community when it is alleged that the victim meets the definition of being a dependent adult, the victim suffers one or more of the seven categories of abuse or neglect, and the abuse or neglect occurred as a result of the acts or omissions of a responsible caretaker or of the dependent adult. Dependent adult abuse does not include allegations involving domestic abuse in a situation where the victim is not "dependent", people who are legally incarcerated in a penal setting, either in a local jail or in the custody of the Department of

Corrections (DOC), or medical treatment not provided in accordance to the dependent adult's stated or compiled consent, or adherent of a religious belief.

Iowa statute (Iowa Code 235E) authorizes the Department of Inspections and Appeals (DIA) to investigate reports of dependent adult abuse in specific health care facilities and programs licensed or certified by DIA when staff are the alleged persons accountable for the abuse, including in hospitals, elder group homes, assisted living programs, adult day services programs, intermediate care facilities, state mental health institutes, nursing facilities, assisted living facilities, and residential care facilities. This profile document is focused on non-DIA investigations.

CONFIDENTIALITY

All information pertaining to persons receiving dependent adult protective services is confidential. Confidentiality of dependent adult information shall be upheld, except as specifically authorized. Access to "founded" or "unfounded" dependent adult abuse information is authorized to "subjects" of a report (the adult victim, the guardian or legal custodian of the adult victim, and the alleged perpetrator) or the attorney for any subject; an employee or agent of DHS responsible for investigating an abuse report; DHS personnel as necessary for the performance of their official duties; the mandatory reporter; the long-term care resident's advocate; and multidisciplinary teams approved by the DHS. Access to "founded" dependent adult abuse information is also authorized to:

- People involved in an investigation of dependent care, including a health practitioner or mental health professional, a law enforcement officer, a multidisciplinary team.
- Individuals, agencies, or facilities providing care to a dependent adult named in a report under some circumstances. This includes a facility licensing authority, a person or agency responsible for the care of a dependent adult victim or perpetrator, a DHS registration or licensing employee, or a person providing care to an adult who is regulated by DHS, and the legally authorized protection and advocacy agency.
- Judicial and administrative proceedings under some circumstances.
- A person conducting bona fide dependent adult abuse research (de-identified info).
- DHS personnel, a person or agency under contract with DHS to carry out the duties of the Registry, or the attorney for DHS.
- The Department of Justice (for victim impact statements and crime victim's compensation purposes).
- A legally constituted adult protection agency from another state for investigative or treatment purposes.

- A health care facility administrator or designee.
- State or local substitute decision maker (only if it relates to provision of legal services for the client).
- A nursing student program administrator and to the Board of Education for abuse background checks.
- The Department on Aging for employment purposes.
- The Iowa Veteran’s Home for volunteer and employees.
- Free Clinics as defined in 135.24A.

For more information on access to abuse information by determination type, please see [Iowa Code Chapter 235B.6](#).

GUIDING PRINCIPLES

Information pertaining to DHS’ APS program policies can be found at <https://dhs.iowa.gov/policy-manuals/social-services>. Policies and procedures pertaining to dependent adult abuse intake are located in manual section 18-A(3) and policies and procedures pertaining to dependent adult abuse assessments in manual section 18-B(3).

INTAKE

REPORTERS

Mandated reporters shall report suspected dependent adult abuse to the DHS or the DIA within 24 hours of becoming aware of an abusive incident. Mandatory reporters are any person who, in the course of employment, examines, attends, counsels, or treats a dependent adult. Mandated reporters include a peace officer; a health practitioner; an in-home homemaker home-health aide; an outreach person; a member of the staff of a community mental health center or a hospital; a social worker; a certified psychologist; and a member of the staff or employee of a supported community living service; a sheltered workshop; a work activity center; an elder group home; an assisted living program; an adult day services program; and a public health care facility, including a residential care facility, a nursing facility, an intermediate care facility for persons with mental illness, or an intermediate care facility for persons with an intellectual disability. Mandated reporters do not need to obtain evidence of abuse to make a report, but only should “reasonably believe a dependent adult has suffered abuse.” Any other person who believes that a dependent adult has suffered abuse may make a report of the suspected abuse to DHS.

A person reporting or cooperating with or helping the department in good faith pertaining to evaluating a case of dependent adult abuse has immunity from liability, civil or criminal. DHS

must withhold the name of the person who made the report of suspected dependent adult abuse. Only the court or the Central Abuse Registry may allow the release of that person's name. The reporter's identity will be safeguarded during the evaluation however, the reporter must be told that continued confidentiality cannot be certain if the report results in civil or criminal court action.

PRIORITIES

The DHS has two priority levels which can be assigned upon receiving a report of abuse pursuant to Section 441 Chapter 176, paragraph 7, subparagraph 2 of the Iowa Administrative Code.

If an immediate threat to the physical safety of the dependent adult exists, the protective service worker has one hour from the time intake received the report to make every reasonable effort to examine the dependent adult. DHS is required to take any lawful action necessary or advisable for the protection of the dependent adult upon response.

When the physical safety of the dependent adult is not endangered, the protective services worker has 24-hours from the time intake received the report to examine the dependent adult. This allows time for and in-depth intake, if necessary, as long as the assigned worker has adequate time to examine the dependent adult within the 24-hour period.

INVESTIGATION

AUTHORITY

DHS may request information from any person believed to have knowledge of a case of dependent adult abuse, including a county attorney, a law enforcement agency, a multidisciplinary team, a social services agency in the state, or any person who is required to report dependent adult abuse, whether or not the person made the specific dependent adult abuse report. Potential sources of information include search of previous and current records; mental health and hospital records; interviews with the referent and other people who have experience with the dependent adult; interviews with service providers; interviews with the dependent and the caretaker, if there is one, to determine whether services were helpful and reasons the dependent adult did or did not utilize them; interviews with relatives who might be able to assist the dependent adult in utilizing services or assuring safety; assessment and interviews with health professionals who have experience in assessing physical injury or neglect; observation of the dependent adult to determine if the dependent adult was bruised or injured; physical viewing of the dependent adult; and law enforcement records.

Interviews shall be conducted with the alleged victim and any other persons who may have relevant information. County attorneys and law enforcement agencies shall also take any other lawful action necessary for the protection of the dependent adult. The alleged perpetrator

must be offered an interview. Every abuse assessment or evaluation must include a dependency assessment to assess degree of dependency, safety and risk.

The evaluation or assessment shall also include all of the following: Identification of the nature, extent, and cause of abuse, if any, to the dependent adult named in the report; identification of the person or persons responsible for abuse; and a critical examination of the residential environment of the dependent adult named in the report and the dependent adult's relationship with caretakers and other adults in the same residence. If permission to access the alleged victim or the residential environment is declined, the district court may authorize DHS to enter the dependent adult's residence and to examine the dependent adult, after shown proof of probable cause that the dependent adult has been abused. Upon a showing of probable cause that the dependent adult has been financially exploited, a court may also authorize DHS to gain access to the financial records of the dependent adult.

Other laws provide substitute decision makers and, when necessary, the involuntary commitment of adults for substance abuse or mental health reasons. Services can be provided for dependent adults; however, all adults have a right to self-determination, unless a court decides the person is not capable to make decisions or is threatening their own life or that of others. When DHS determines a dependent adult is suffering from abuse which presents an immediate danger and results in irreversible harm of the physical or financial resources of the dependent adult, and the adult lacks the capacity to consent to receive services, DHS will petition the court to order the removal of the dependent adult to safer surroundings; order the provision of medical services; order the provision of available services, including emergency services; or terminate a guardianship or conservatorship. When legal intervention is required, the least limiting legal option that is in the best interest of the dependent adult is considered. These include court-ordered interventions, emergency orders for protective services, guardianship, conservatorship, substance abuse commitment, and mental health commitment.

The assessment or evaluation of abuse in Iowa is not voluntary. However, if a person refuses recommended services, the DHS cannot compel the acceptance of services unless the person lacks capacity to consent. The DHS would then need to seek district court intervention. Otherwise, the adult retains the right to self-determine what services he or she is willing to accept.

CASE INITIATION

For DHS to accept a report, the alleged victim must be a dependent adult; the person alleged responsible for the abuse must be a caretaker and the alleged incident must be an allegation found in the definition of dependent adult abuse in Iowa Code Chapter 235B. These case types are called evaluations and can result in Central Abuse Registry placement. A "caretaker" is a related or unrelated person who is responsible for the protection, care, or custody of a

dependent adult because of assuming the responsibility voluntarily, by contract, through employment, or by court order.

DHS also assesses reports of self-neglect whereby the caretaker and dependent adult is self. Self-neglect (Self-Denial of Critical Care in Iowa) cases are considered assessments which means there is no Central Abuse Registry placement regardless of the findings.

CONDUCTING INVESTIGATION

When alleged abuse involves a dependent adult living in their own home, the home environment shall be assessed. Physical factors, mental factors, social factors, environmental factors, and financial factors aid in determining dependency. When protective concerns are identified, relationships of other household members to each other shall be assessed. The assessment shall include identification by name and role of the other household members; identification of the household strengths and weaknesses; an analysis of the risk factors to the dependent adult named in the report; and when protective concerns are identified, an analysis of the risk factors to other dependent adults within the household. When the abuse allegation involves any out-of-home setting other than a care facility, the environment where the abuse occurred shall be assessed. The relationships between the alleged perpetrator and the victim and any other dependent adults to whom the alleged perpetrator provides care shall be assessed.

A court may also authorize DHS to gain access to the financial records of the dependent adult upon a showing of probable cause that the dependent adult has been financially exploited. They may also have the authority to ask for and be given necessary medical information to complete their dependent adult abuse evaluation or assessment. The standard period for investigation completion is 20 working days, however, up to three extensions at 30 working days per extension may be granted with good cause.

DISPOSITIONS

The standard of evidence is preponderance of credible evidence.

DHS has 3 possible outcomes in a dependent adult abuse evaluation:

- **Founded:** A preponderance (more than 50%) of evidence that the allegations are true, AND credible evidence to support the presence of each factor necessary to determine that this type of abuse occurred. Information on founded reports is maintained on the Central Abuse Registry for 10 years and then sealed (unless there is a founded subsequent report).
- **Unfounded:** A preponderance (more than 50%) of evidence that the allegations are not true, or insufficient evidence to conclude that the allegations are true, or absence of at least one of the factors necessary to determine that this type of abuse occurred.

Information on unfounded reports is expunged five years from the date of the initial report.

- Confirmed, not registered: A preponderance of evidence (more than 50%) of evidence the allegations are true, credible evidence to support the presence of each factor necessary to determine physical abuse or denial of critical care has occurred, AND credible evidence to support the conclusion the physical abuse or denial of critical care was minor, isolated and unlikely to reoccur. When physical abuse or denial of critical care by a caretaker is determined to be minor, isolated and unlikely to reoccur, the report is maintained for five years and then destroyed, unless a subsequent report is founded.
- If there is a succeeding report committed by the same caretaker within five years of the nonregistered report, it also may be considered minor, isolated, and unlikely to reoccur contingent on the circumstances. These reports are called assessments rather than evaluations. The subsequent reports will be kept for 10 years and then sealed unless good cause can be shown why the information should remain open to authorized access.

Upon completion of the report, all subjects and mandatory reporters are notified in writing of the conclusions of the evaluation or assessment report.

The evaluating worker and law enforcement often work together. DHS transmits a copy of all intakes and evaluations or assessments to the county attorney through the county attorney portal. Criminal laws allow for prosecution of alleged perpetrators in cases where a criminal act has been committed. When a dependent adult is the victim of a criminal act by the caretaker, the caretaker may be criminally charged.

A central registry in DHS offers a sole source for the statewide collection, maintenance, and dissemination of dependent adult abuse information. The Central Abuse Registry includes report data, investigative data, and disposition data relating to reports of dependent adult abuse. When physical abuse or denial of critical care are confirmed to have occurred but are minor, isolated, and unlikely to reoccur, the report will not be placed on the Central Abuse Registry. It will be upheld as an assessment only in the local office.

POST-INVESTIGATIVE SERVICES

AUTHORITY

Dependent adult abuse services may be offered regardless of the conclusion of the report. DHS is required to make recommendations for services or other legal remedies the victim and the perpetrator. Based on the evaluation, DHS finalizes an assessment of services needed by a dependent adult believed to be the victim of abuse, the dependent adult's family, or a

caretaker. DHS makes referrals or may provide necessary protective services to eligible dependent adults, their family members, and caretakers upon voluntary acceptance of the offer of services. The dependent adult can refuse services, unless a court decides the person cannot make decisions or is threatening their own life or that of others. Adults have a right to self-determination and have the right to willingly accept services or to decline them.

In some cases, if the DHS determines that a risk to the health or safety of the individual exists or the individual has a significant impairment in ability, and the individual being assessed agrees, provision for a case manager to be assigned to assist in preparing and implementing a safety plan with protective services for the individual shall be made.

If the assessment determines that a risk to the health or safety of the individual exists or the individual has a significant impairment in ability, and the individual being assessed does not agree to safety planning, other services, or a protective order cannot be obtained, the department has authority to conduct periodic visits with the individual. Periodic visits are to occur at least once a month, face to face for up to six months.

APPROACH

The Department must provide services in the least restrictive manner possible respecting individual rights and honoring self-determination.

Funding is available for examinations based on sexual abuse through the Iowa Crime Victim Assistance Program. Other victim expenses associated with any dependent adult abuse may be reimbursable through the same program. Child Protection Centers with access to personnel who have expertise with dependent adults may also be utilized for forensic interviews and exams. Iowa has five centers in Iowa and one center in Nebraska contracted via the Iowa Department of Public Health.

There are sometimes county funds, but there are no State funds available to pay for a medical or mental health examination if the dependent adult or caretaker lacks health insurance or the funds to pay for an examination. If the county in which the dependent adult lives is willing to pay for the services, they may be offered through the Department without regard to income.

DHS has two case closure reasons: Investigation completed, no periodic visits required, and Investigation completed, periodic visits required. If periodic visits are required, a case may remain open for up to six months after supervisory approval of the investigation determination. Otherwise, the investigation timeframe is a maximum of 110 working days if extensions are utilized. Please see Authority section for more information.

QUALITY ASSURANCE

Supervisory approval is required to reject a report of dependent adult abuse. Evaluation and assessment case records may comprise Suspected Dependent Adult Abuse Report, or other

written report from a mandatory reporter; Dependent Adult Abuse Services Intake; Dependent Adult Abuse Evaluation or Assessment Report; Dependent Adult Abuse Report Request for Extension; Adult Protective Notification; Request for Dependent Adult Abuse Registry Information; and any other correspondence and materials relating to the evaluation or assessment. Every assessment or evaluation requires supervisory consultation at specific case points (for a minimum) and supervisory review. Ultimately, an investigation is not concluded until a supervisor reads and approves the report. DHS also conducts additional quality assurance activities including an internal rapid response team for fatalities, rejected intake review meetings, and has an intake advisory council.

Kansas

Name of Agency	Kansas Department of Children and Families
Name of Program	Adult Protective Services
Data Sources	Kansas APS Manual and State Statues NAMRS Agency Component Data FFY2020 Report

CONTEXT

ADMINISTRATION

Chapter 39, Article 14 of the Kansas Statutes establishes the APS program in Kansas. The APS program is part of the Kansas Department of Children and Families (DCF) and is state-administered. All Staff are state employees.

SCOPE

The APS program investigates allegations involving vulnerable adults. A vulnerable adult is an individual 18 years of age and older who is at risk of self-harm or harm from another individual due to physical, emotional or mental impairments that severely limit his/her ability to manage his/her home, or personal or financial affairs.

APS Investigates Abuse, Neglect, Self Neglect, and Financial Exploitation:

"Abuse" means any act or failure to act performed intentionally or recklessly that causes or is likely to cause harm to an adult, including:

- (1) Infliction of physical or mental injury;
- (2) any sexual act with an adult when the adult does not consent or when the other person knows or should know that the adult is incapable of resisting or declining consent to the sexual act due to mental deficiency or disease or due to fear of retribution or hardship;
- (3) unreasonable use of a physical restraint, isolation or medication that harms or is likely to harm an adult;
- (4) unreasonable use of a physical or chemical restraint, medication or isolation as punishment, for convenience, in conflict with a physician's orders or as a substitute for treatment, except where such conduct or physical restraint is in furtherance of the health and safety of the adult;

(5) a threat or menacing conduct directed toward an adult that results or might reasonably be expected to result in fear or emotional or mental distress to an adult;

“Neglect” means the failure or omission by one's self, caretaker or another person with a duty to supply or provide goods or services that are reasonably necessary to ensure safety and well-being and to avoid physical or mental harm or illness.

“Financial Exploitation” means the unlawful or improper use, control, or withholding of property, income, resources of the adult by any other person or entity not to the profit or the advantage of the adult. Financial Exploitation includes but is not limited to:

(1) The use of deception, intimidation, coercion, extortion, or undue influence, by a person or entity to obtain or use the property, income, resources, or trust funds of the adult not to the profit or to the advantage of the adult.

(2) The breach of a fiduciary duty, including, but not limited to, the misuse of a power of attorney, trust, or a guardianship/conservatorship appointment, as it relates to the property, income, or resources of the adult.

(3) Obtaining or using an adult's property, income, resources, or trust funds without lawful authority, by a person or entity who knows or clearly should know that the adult lacks the capacity to consent to the release or use of his or her property, income, resources or trust funds.

APS Specialists investigate reports and provide protective services to adults residing in the community. Allegations involving vulnerable adults residing in facilities and adult care homes licensed/certified by the Kansas Department for Aging and Disability Services are investigated by APS when the perpetrator is not a resident or employee.

The Kansas Department of Aging and Disability Services (KDADS) licenses and investigates resident-to-resident and staff-to-resident allegations in the following settings:

- Adult Care Homes (nursing facilities, nursing facilities for mental health, Intermediate Care Facilities for Intellectual Disabilities (ICF/IDD, Assisted Living, Residential Health Care, Homes Plus and Board and Care facilities)
- Long term care units within hospitals

CONFIDENTIALITY

All APS case records are presumed confidential and are not released without a specific release from the involved adult. This includes information requested by attorneys and other agencies. However, when APS is not able to obtain a signed release form, they may share certain information with providers to benefit the involved adult.

Based on the extant materials, no information is available on the confidentiality of the reporter.

State law requires protection of information which identifies the person who reported the suspected adult abuse, neglect or exploitation unless the reporter requests or agrees in writing to disclosure or as allowed per judicial proceedings. K.S.A. 39-1434

GUIDING PRINCIPLES

The APS manual states:

Adult Protective Services are interventions directed towards safeguarding the well-being and general welfare of vulnerable adults who are in need of protection. A vulnerable adult is defined as a person who has been harmed, or is at risk of harm due to impairments that severely limit his/her ability to manage themselves, home or personal or financial affairs. Intervention is available to adults in need of assistance dealing with abusive, neglectful or exploitative situations, are unable to protect themselves. Every action taken by Adult Protective Services must balance the duty to protect the safety of the involved adult with the adult's right to self-determination.

INTAKE

REPORTERS

State Law Mandates Abuse, neglect or financial exploitation of certain adults; reporting abuse, neglect or financial exploitation or need of protective services; persons required to report; penalty for failure to report; posting notice of requirements of act

- (a) When any of the following persons have reasonable cause to suspect or believe an adult in need or protective services is being is been harmed as a result of physical abuse, neglect or financial exploitation the person shall promptly the person shall report the matter promptly as provided in subsections (b) and (c):
- (1) Persons licensed to practice the healing arts, dentistry and optometry, persons engaged in postgraduate training programs approved by the state board of healing arts, licensed professional or practical nurses and chief administrative officers of medical care facilities;
 - (2) Person's licensed by the state to provide mental health services: Licensed psychologists, licensed masters level psychologists, licensed clinical psychotherapists, licensed social workers, licensed marriage and family therapists, licensed clinical marriage and family therapists, licensed professional counselors, licensed clinical professional counselors, licensed addiction counselors and licensed clinical addiction counselors;

- (3) Teachers, school administrators or other employees of an educational institution which the adult is attending; and
 - (4) Firefighters, emergency medical services personnel, law enforcement officers, court services officers, community corrections officers, case managers appointed under K.S.A. 233508, and amendments thereto, and mediators appointed under K.S.A. 23-3502, and amendments thereto, a rehabilitation counselor, a bank trust officer or any other officers of financial institutions, a legal representative, a case-manager, a governmental assistance provider, an owner or operator of a residential care facility, an independent living counselor and the chief administrative officer of a licensed home health agency, the chief administrative officer of an adult family home and the chief administrative officer of a provider of community services and affiliates thereof operated or funded by the Kansas department for children and families or licensed under K.S.A. 75-3307b, and amendments
- (b) Other state agencies receiving reports that are to be referred to the Kansas department for children and families and the appropriate law enforcement agency, shall submit the report to the department and agency within six hours, during normal work days, of receiving the information. Reports shall be made to the Kansas department for children and families during the normal working week days and hours of operation. Reports shall be made to law enforcement agencies during the time the Kansas department for children and families is not in operation. Law enforcement shall submit the report and appropriate information to the Kansas department for children and families on the first working day that the Kansas department for children and families is in operation after receipt of such information.
- (1) An employee of a domestic violence center shall not be required to report information or cause a report of information to be made under this subsection.

Based on the extant materials, no information is available on the confidentiality of the reporter.

State law requires protection of information which identifies the person who reported the suspected adult abuse, neglect or exploitation unless the reporter requests or agrees in writing to disclosure or as allowed per judicial proceedings. K.S.A. 39-1434

PRIORITIES

DCF receives reports of adult abuse/neglect/exploitation 7 days/week, 24 hours/day. Reports are made to the Kansas Protection Report Center (KPRC). The information obtained must be sufficient to:

- Determine whether the involved adult meets the definition of a vulnerable adult
- Determine whether the concern meets the definition of Abuse/Neglect/Financial Exploitation

- Locate the involved adult
- Determine how immediate the needs of the involved adult may be

The timeframe for an initial face-to-face home visit is as follows:

- Twenty-four (24) hours: When a report indicates the involved adult is in imminent danger, face-to-face contact shall be completed in 24 clock hours. The 24-hour timeframe for contact begins when the report is assigned for further assessment. Imminent danger means a substantial probability that an involved adult is in immediate risk of death or serious physical harm.
- Three (3) working days: When a report of suspected abuse indicates the involved adult is not in imminent danger, contact shall be made in three working days.
- Five (5) working days: When a report of neglect or exploitation indicates the involved adult is not in imminent danger, contact shall be made within five working days.

INVESTIGATION

AUTHORITY

When a report is received the APS Specialist must conduct a thorough investigation to ensure the safety and well-being of the involved adult. The APS Specialist shall use his/her professional judgment throughout the investigation. During the course of an investigation, or when providing protective services, if the APS Specialist suspects a criminal act has occurred a report must be made in writing to the appropriate law enforcement agency and the Attorney General's ANE Unit.

During the course of an APS investigation, if the involved adult is in need of protective services and lacks capacity to consent statute allows staff to pursue a petition with the district court to appoint the involved adult with a guardian and/or conservator. Depending on the needs of the involved adult, several options for guardian and/or conservatorship are available:

- Voluntary Conservator: An adult may petition the court to have a voluntary conservator appointed to make financial decisions for him or her.
- Temporary Guardian: A temporary guardian can be appointed when there is an imminent threat to the health or safety of an alleged impaired adult.
- Temporary Conservator: A temporary conservator can be appointed when there is an imminent threat to the financial resources of a person may be depleted unless immediate action is taken.
- Involuntary Guardian and/or Conservator: When an adult has been legally determined to be unable to manage for themselves.

The timeframe for completing an investigation is 30 working days for Abuse, Neglect and Self Neglect, and 60 working days for Financial Exploitation.

Based on the extant materials, no information is available on specific investigatory activities or if an alleged victim can refuse an investigation.

KSA 39-1438. If an involved adult does not agree to accept reasonable and necessary protective services offered, or if such adult states during the course of service delivery they do not want to proceed such services shall not be provided or continued.

CASE INITIATION

Based on the extant materials, no information is available on additional case initiation requirement or who is to be notified when a case is initiated.

Law Enforcement is to be notified by the APS Specialist if it appears a crime has occurred or appears to have occurred of Abuse, Neglect or Financial Exploitation. KSA 75-723 Section 3 (7) (e) Whenever a state agency reports a matter involving suspected abuse, neglect or exploitation of an involved adult to a law enforcement agency or a county or district attorney, such state agency shall simultaneously forward such report to the Abuse, Neglect, Exploitation (ANE) unit of Attorney General Office.

CONDUCTING INVESTIGATION

There are four broad categories that the APS Specialist should address during the course of an investigation: environment, functional ability, physical health, and mental health. These are assessed by interviews with the involved adult and the alleged perpetrators, information obtained by friends and/or family members, and the APS Specialist's observations. A formal assessment by a mental health professional may be requested as needed.

Kansas Statutes give DCF the authority to contact other agencies, individuals, and professionals to gather the information necessary to complete an investigation. Whenever possible, the APS Specialist should attempt to have the involved adult, or his or her guardian, sign a consent form. When interviewing collaterals, the APS Specialist is to ask only that which is necessary to obtain the required information. The APS Specialist shall at all times take steps to protect client confidentiality. Information is shared with collaterals only on a need to know basis.

The investigation is to be completed within 30 working days of receiving a report of Abuse, Neglect, and Self-Neglect and 60 working days for Financial Exploitation cases. If there is an on-going criminal investigation the APS Specialist has 90 working days to complete the investigation.

DISPOSITIONS

The standard of evidence applied is clear and convincing.

Clear and convincing evidence is defined as the evidence which shows the truth of the facts asserted is highly probable.

The investigation dispositions are:

- Unsubstantiated: The facts do not provide clear and convincing evidence to meet the definition of abuse, neglect or financial exploitation.
- Substantiated: The facts provide clear and convincing evidence to conclude the alleged perpetrator's actions or inactions meet the definition of abuse, neglect or financial exploitation.

APS is required to notify the alleged perpetrator of all findings, except self-neglect, within five days of making the determination. The involved adult is notified of the findings as well, findings of a self-neglect investigation can be notified by mail or a call from the APS specialist.

Additionally, if an investigation is determined to be substantiated, notification of findings are sent to:

- Law enforcement,
- County/District Attorney,
- Economic and Employment Services for misappropriation of funds
- The Attorney Generals' ANE unit
- CEO of the Group Homes, and
- Adult Care Homes.

Kansas operates a Central Registry which is a name-based list of persons who have been substantiated for adult abuse, neglect, and Financial Exploitation. Substantiated perpetrators on the registry may be prohibited from working or volunteering with children and/or vulnerable adults. The name of the perpetrator is not entered in the central registry until they have been afforded due process.

When a perpetrator is substantiated for Financial Exploitation and their name would be added to the Central Registry, a Corrective Action Plan (CAP) may be offered.

Corrective Actions Plans are individualized plans which shall be written with input from the involved adult and the alleged perpetrator. A CAP may only be used for the purpose of restoring money or property.

POST-INVESTIGATIVE SERVICES

AUTHORITY

During the course of the assessment, if the need for services is identified and accepted by the involved adult, a service plan is initiated. The APS specialist may involve family members or other individuals to participate in the service plan with the consent of the involved adult. The service plan is written for no more than 180 days and must be reviewed with the supervisor every 60 days.

Based on the extant materials, no information is available on whether or not services are provided to family members or perpetrators.

APPROACH

The APS Specialist is responsible for conducting on-going assessments during the investigation and provision of services. If it is unclear what level of assistance the involved adult may need, the APS Specialist may complete the Decision Making and Functional Assessment: Criteria for Legal Impairment: A Multi-Disciplinary Tool. The tool guides the APS Specialist through multiple questions related to the involved adults' physical/mental ability, physical environment, social/family support, and ability to self-care. The continuum of interventions are to be used with consideration given to least restrictive alternatives first.

APS may provide emergency services to involved adults who are the subject of an investigation at any point during an investigation. Medically necessary expenses paid by APS Emergency Support Funds may be allowable against spend down for Medicaid. Emergency Services may be provided when the following conditions are met:

- *Individual must be 18 years of age or older and not in the custody of DCF.*
- *Individual resides in the community.*
- *There is an open Adult Protective Service investigation.*
- *There are no other existing resources to provide the services on an emergency basis.*
- *The individual does not have resources, including family and friends readily available.*

When the involved adult is no longer in need of protective services, the outcomes identified on the service plan are accomplished, or the involved adult withdraws consent for services the service plan shall be closed.

QUALITY ASSURANCE

All case findings shall be staffed with the supervisor and a finding made within thirty (30) working days for Abuse, Neglect and Self-Neglect cases, and sixty (60) working days for Financial Exploitation cases. The documentation is to be completed within 5 working days after the staffing.

APS uses the Kansas Intake/Investigation Protection System (KIPS). Cases accepted for investigation prior to the use of KIPS are to be retained for 6 years, ANE Cases other than self - neglect that were substantiated prior to KIPS will be kept indefinitely. All records in KIPS are kept indefinitely.

APS has a Case Review process that involves a random draw for each region, cases are read against policy for process and timeframes to ensure standards are met. Case Reviews are completed quarterly.

Based on the extant materials, no information is available on a quality assurance program

Kentucky

Name of Agency	Department for Community Based Services
Name of Program	Adult Protective Services
Data Sources	Kentucky APS Manual NAMRS Agency Component Data FFY2020 Report

CONTEXT

ADMINISTRATION

The Kentucky Adult Protective Services (APS) is a state administered program within the Department for Community Based Services (DCBS). The program operates under chapter 209 of the Kentucky Revised Statutes. Kentucky APS infrastructure has 17 designated APS investigative teams throughout Kentucky. Each team has a supervisor who reports to a Service Region Administrative Associate and a Service Region Administrator. Regional APS staff can also consult with the Adult Protection Branch. The Adult Protection Branch consists of a branch manager, two APS specialist, and four APS nurse consultants. The main purpose of the branch is to support the APS teams housed within the service regions that provide adult protective and general adult services through case consultation, development of standards of practice, and development of data systems.

SCOPE

Kentucky statute authorizes APS to investigate all known or suspected allegations of abuse, neglect, and exploitation of an adult as defined in KRS 209.020 (4) regardless of setting. DCBS APS investigates the following types of maltreatment: physical abuse, sexual abuse, neglect, exploitation, and mental injury. Reports involving individuals who do not meet the definition of adult may be reviewed to decide if the information or allegation meets acceptance criteria for general adult services or is suitable for referral to other community partners for assistance. DCBS APS also accepts reports alleging an adult died because of abuse or neglect. The APS program investigates allegations of ANE in state-operated facilities, alternate care facilities, licensed health care facilities, and in community-based settings.

Adults are defined as persons 18 years or older who, because of mental or physical dysfunction, is incapable of managing their own resources, carry out the activities of daily living, or protect themselves from neglect, exploitation, or a hazardous or abusive situation without assistance from others, and who may need protective services.

When a report is received that does not meet the definition of adult it may be reviewed to determine if it meets the criteria for general adult services. General adult services includes services requested by adults 65 years or older, who are not physically or mentally dysfunctional, but are being abused, neglected or exploited by a family member, household member, or caretaker. General adult services are voluntary, preventive services aimed at assisting an adult in attaining and functioning at their highest level of self-sufficiency and autonomy; and in maintaining the adult in the community.

General adult services may also be provided when the social service worker (SSW) accepts an interdisciplinary evaluation report (IDT) for services when an adult is suspected to be partially/fully disabled and ANE are not alleged. If the SSW and the adult agree, they also accept reports for services if the adult is physically or mentally dysfunctional, but with no ANE, and is requesting services or in a situation in which services are requested at the direction of an individual through another individual or agency; an alleged victim of domestic violence or youth transitioning from out of home care and released from commitment within the past 12 months and requesting services for self-sufficiency.

CONFIDENTIALITY

All information obtained by the department staff or its delegated representative, as a result of an investigation made pursuant to this chapter, shall not be divulged to anyone except:

- Persons suspected of abuse or neglect or exploitation, provided that in such cases names of informants may be withheld, unless ordered by the court;
- Persons within the department or cabinet with a legitimate interest or responsibility related to the case;
- Other medical, psychological, or social service agencies, or law enforcement agencies that have a legitimate interest in the case;
- Cases where a court orders release of such information; and
- The alleged abused or neglected or exploited person.

GUIDING PRINCIPLES

The department and its employees should recognize the vulnerability of their clients and the serious responsibilities associated with intervention. The behavior of social service professionals should reflect the emphasis placed by the social service field on professional trustworthiness and on the values of respect for persons, client self-determination, individualized intervention, competence, loyalty, diligence, honesty and confidentiality.

Social service professionals have a duty to be familiar with their responsibilities and to consider which ethical principles apply in each practice decision. Social service professionals should

follow applicable ethical principles in each practice decision. If there is a conflict between two or more ethical principles and/or responsibilities in a particular case, social service professionals should consult with superiors and colleagues knowledgeable about ethics issues in choosing a proper course of action.

Specific, detailed principles are outlined for all DCBS employees and the following professionals in KY standards of practice manual for Protection and Permanency Professionals and Supervisors/Leadership. Additional practice guidelines are detailed for all agency social services professionals.

INTAKE

REPORTERS

All individuals/state residents are required by law to report abuse, neglect and exploitation to APS.

PRIORITIES

The SSW adheres to the following timeframes for initiation of an investigation:

1. Within 1 hour of the receipt of the report if the adult's condition presents a substantial risk of immediate and serious physical harm or death; or
2. Within 48 hours of receiving the report if the adult is not in a state of emergency.

INVESTIGATION

AUTHORITY

The SSW is required to have face-to-face contact with the reported victim(s) to begin an APS investigation. Mental and physical health records necessary to complete the investigation are reviewed by the SSW and copies obtained, if possible, to be included in the report. If the SSW has trouble accessing records, they may send an APS HIPAA Letter for Release of Information requesting the records. The letter must be approved and signed by the Family Services Office Supervisor (FSOS). The SSW may review financial records including savings and checking account statements, financial eligibility and assistance records, disability or retirement income records and property valuation records. Police records, mental inquest, disability, probate records or other legal documents may be reviewed to complete the investigation and copies may be obtained, if possible, to be included in the investigative report. The SSW may request a criminal record check through the Administrative Office of the Courts at any time during the investigation or provision of ongoing services; and the criminal records check may be requested on any household member, the alleged victim, the alleged perpetrator, or the caretaker.

Each report is considered for investigation or preventive services and when a report is accepted; the adult may refuse to be interviewed or may be unable to participate in the investigation. However, all reports meeting acceptance criteria for investigations are assigned and completed.

If determined an adult lacks the capacity to consent to services and is living in conditions, which create a substantial risk of death or could cause immediate and serious physical harm to themselves or others, the SSW assesses the need for involuntary protective services and requests the least restrictive intervention.

If a substantial risk of death or serious physical harm is evident, the SSW determines whether an Emergency Protective Services Order (DPP-251) or an Emergency Protective Order Ex-Parte (DPP-252) needs to be filed. If an adult is unable to manage personal affairs, financial affairs or to carry out the instrumental activities of daily living, but a substantial risk of death or serious physical harm is not evident, a guardian or conservator may be needed.

When assessment reveals an adult needs hospitalization for mental health/intellectual disability, the SSW counsels the adult to receive voluntary treatment from a mental health center or hospital. If the individual still appears to be dangerous to self or others due to mental illness or intellectual disability involuntary hospitalization may be considered under KRS 202A.026 Criteria for Involuntary Hospitalization (mentally ill) or KRS 202B.040 Criteria for Involuntary Admission for individuals with an intellectual disability.

CASE INITIATION

The SSW initiates an investigation within 1 hour of the receipt of the report if the adult's condition presents a considerable risk of death or instant and serious physical harm; or within 48 hours of receiving the report if the adult is not in a state of emergency. Case initiation requires a face-to-face contact with the alleged victim.

The SSW initiates an interagency response by completing the following tasks when a report is received and the required information is secured:

- *Submits all intakes to the FSOS or designee for approval and assignment*
- *Enters the report and creates the DPP-115 Confidential Suspected Abuse/Neglect, Dependency or Exploitation Reporting Form*
- *Sends a copy of the DPP-115 to the appropriate law enforcement agency, even when they are the reporting source*
- *Sends each DPP-115 to the commonwealth's attorney and, county attorney for prosecution*
- *Sends a copy of the DPP-115 to the appropriate authorized agency (e.g., OIG-regional offices, DBHDID)*

- *Sends a copy of the DPP-115 to the Office of the Attorney General for possible investigation and prosecution when employees of the facility including home health agencies receiving Medicaid funding are the alleged perpetrator*
- *Forwards the DPP-115 to the local Guardianship Office, if the SSW is aware that the alleged victim identified in the report is a state guardianship client*

When the alleged victim resides in a facility, or is served by a provider, Kentucky APS requires specific notifications based on the type of facility or provider. When allegations involve a registered nurse or licensed practical nurse, the SSW sends a copy of the DPP-115 to the Kentucky Board of Nursing.

CONDUCTING INVESTIGATION

When providing ongoing case services to an adult, with consent of the adult, the SSW may include designated regional cabinet staff; family members and friends; community partners (i.e. medical providers, faith based organization members); or other individuals requested by the adult in case planning.

Mental and physical health records necessary to complete the investigation are reviewed by the SSW and copies obtained, if possible, to be included in the report. If necessary, the SSW consults with a regional nurse consultant or a nurse service administrator. If an institution does not allow access to medical records, the SSW may be able to gain access by using the DCBS-1 Informed Consent and Release of Information and Records and DCBS-1A Informed Consent and Release of Information and Records Supplement; or if the SSW has difficulty accessing records, the SSW may send a APS HIPAA Letter for Release of Information requesting the records. The letter must be signed and approved by the FSOS.

The SSW may review financial records including savings and checking account statements, financial eligibility and assistance records, disability or retirement income records and property valuation records.

If a financial institution does not allow access to financial records, the SSW may be able to gain access by using the DCBS-1 and DCBS-1A; or if the SSW has difficulty accessing records, the SSW may send a letter from the CHFS General Counsel requesting the records. The letter must be signed and approved by the FSOS. If records still aren't released, the Office of Legal Services may be consulted with supervisory approval and a petition for a court order to release financial information needed to complete an investigation may be requested.

APS investigative staff use a standardized assessment tool throughout the state called the APS Assessment and Documentation Tool. The SSW finalizes the investigation and assessment of risk on the adult assessment and submits to the FSOS for approval and signature within 30 working days after initiation of the investigation. If the investigative worker is unable to

complete the assessment within 30 working days (45 calendar days from receipt of the investigation), the SSW has specific guidelines in deciding the need to request an extension.

DISPOSITIONS

The APS agency's standard of evidence is preponderance.

Once an investigation is complete, the SSW records the investigative findings in an ANE investigation as:

- *Substantiated*—a SSW has determined that an adult is the victim of abuse, neglect or exploitation. A substantiated finding is made as a result of a personal interview with the alleged victim and one of the following conditions:
 - *An interview with the alleged perpetrator, if conducting the interview does not pose a threat to the victim, in which the individual admits to abusing, neglecting or exploiting the victim; or*
 - *The presence of evidentiary or supportive facts, such as medical evidence, observation of injuries, or witness testimony that reveals a preponderance of evidence. These examples are combined with other strong collaborating facts and documented in the adult assessment*
- *Found and Substantiated*—when a SSW discovers during an investigation, or through a routine service contact, that an adult was the victim of ANE, and the incident was not previously reported through the department's intake process. The SSW uses the same standards for a finding of found and substantiated as for a substantiated finding.
- *Unsubstantiated*—used when
 - *Contact with the alleged victim reveals no evidence, facts, indicators or justification to substantiate abuse, neglect or exploitation; or*
 - *The location of the adult is known and attempts at contacting or conducting a personal interview with the alleged victim have been unsuccessful, and there is a lack of supportive evidence to indicate abuse, neglect or exploitation*
- *Unable to Locate*—when the SSW cannot locate an alleged victim after repeated, diligent efforts.

The SSW submits a Notice of Protective Services Investigative Findings – ANE form to all of the following authorized agencies with a legitimate interest in the case within 24 hours of completion of an investigation and records the name of the perpetrator on the form:

- The appropriate law enforcement agency
- The commonwealth's attorney
- The county attorney

- The Office of Inspector General-regional office when the alleged victim resides in or receives services from a nursing facility; hospital; Intermediate care facility; or home health agency
- The state long term care ombudsman (when appropriate)
- Appropriate licensure/certification boards (when appropriate)
- The Office of Attorney General for possible investigation and prosecution of reports involving facilities that receive Medicaid funding, which includes home health agencies
- Division of Developmental and Intellectual Disabilities when the alleged victim resides in a support for community living facility
- Division of Behavioral Health when the alleged victim resides in a state operated facility
- The alleged victim
- The legally appointed guardian of the alleged victim

The SSW sends notice of the finding to the perpetrator upon approval of the assessment by the FSOS, and sends a notification of findings letter within 10 working days to the alleged perpetrator, when they are an employee of an adult care provider; a volunteer of an adult care provider; a privately compensated caregiver; or a waiver compensated caregiver.

The SSW informs the Kentucky Board of Medical Licensure if the SSW believes there are adequate grounds to seek disciplinary action against a doctor. Kentucky has a Caregiver Misconduct Registry for perpetrators with validated substantiated findings when the perpetrator is an employee or volunteer of an adult care provider, or a person in a caregiver role with an expectation of compensation.

For general adult services cases, following the assessment the SSW makes one of the following finding determinations for the decision to provide of ongoing services: eligible/accepts services, eligible/refuses services, ineligible; unable to locate, or no findings.

POST-INVESTIGATIVE SERVICES

AUTHORITY

All clients are offered preventative services to ensure the safety and well-being of the adult, while also protecting their right to self-determination. The SSW offers the adult protective or preventive services identified in the adult assessment. “Services are based on the voluntary request for or acceptance of protective services by the adult in need of services, the voluntary request for services by a guardian on behalf of the adult or court ordered protective services, which are specified by the court and defined within the court order.” All adults are offered protective services and may accept or refuse services.

APPROACH

The SSW assesses the need for involuntary protective services and requests the least restrictive intervention.

An APS case is closed when the goals and objectives agreed upon by the SSW and the adult have been achieved; the adult requests the case be closed; there is loss of contact with the adult for over 60 days; the adult is deceased; or there is a lack of legal authority to obtain court ordered cooperation from the adult.

QUALITY ASSURANCE

The FSOS (or designee) reviews and approves the investigation, assessment, and investigative finding(s) of cases when they are submitted by the SSW upon completion of the investigation.

All reports of adult ANE and all casework activities, including all contacts, risk and protective factors and case findings, are entered into the Worker Information System (TWIST), the automated documentation system.

The supervisor meets monthly with each worker to discuss and strategize case specific issues for each APS case assigned to the worker

Louisiana (Disability)

Name of Agency	Louisiana Department of Health
Name of Program	Adult Protective Services
Data Sources	Policy and Procedures for Adult Protective Services (January 2019) NAMRS Agency Component Data Report 2020

CONTEXT

ADMINISTRATION

The Louisiana Adult Protective Services Act ([Revised Statutes, Chapter 15](#)) authorizes the Louisiana APS program. The Louisiana APS program is a state-run program currently administered by the Aging and Adult Services Division of the Louisiana Department of Health (LDH).

SCOPE

The Louisiana APS client population is vulnerable adults 18 to 59, and emancipated minors. The agency's definitions for adult and person with disabilities overlap, covering both age and disability, and contain the basic eligibility criteria derived from law.

Adult - a person eighteen years of age or older or an emancipated minor who is mentally, physically, or developmentally disabled and whose disability substantially impairs the person's ability to provide adequately for his/her own care or protection.

Person with disabilities - a person who due to a mental, physical, or developmental disability or infirmities of aging is unable to manage his own resources, carry out the activities of daily living, or protect himself from abuse, neglect or exploitation.

The Louisiana APS program has two investigative sections: Community Investigations and Facility Investigations. Community Investigations involve adult clients living in the community in non-licensed settings, including cases where the client is abused by a family or community person, and cases where the client lives in a licensed facility but the alleged perpetrator is not an employee of the facility. Facility Investigations involve cases where LDH is the provider (as in state-run Developmental Facilities and Mental Health Facilities) and the accused is employed by the facility, and when Office of Aging and Adult Services/APS has Memorandum of

Understanding (MOU) agreements with programs or agencies to investigate. APS investigates incidents involving any client of a LDH operated facility/program, regardless of age or disability.

Louisiana APS investigates physical abuse, sexual abuse, neglect, self-neglect, emotional abuse, exploitation (financial and non-financial), and extortion. Definition can be found in appendix B.

CONFIDENTIALITY

APS case information and records are confidential. It may be released with written authorization from the client or the client's legal representative. Certain information may be shared with law enforcement and medical or social service agencies to coordinate the provision of protective services to the client. APS may also share some information with regulatory agencies. APS staff are expected to disclose only the minimum necessary information when disclosure is required.

Case records of investigations conducted in LDH facilities or programs become the property of the facility once APS submits the investigation report, and requests for copies of facility investigation reports are referred to the facility.

The reporter's identity is confidential except when disclosed to law enforcement or the courts, as required by law. However, LDH staff who make reports about incidents in LDH facilities are not guaranteed anonymity.

Reporters are immune from civil/criminal liability and protected from retaliation when making a report to APS in good faith.

GUIDING PRINCIPLES

Louisiana APS policy and procedure manual states their APS program is *guided by the National Adult Protective Services Association (NAPSA) Code of Ethics and the Adult Protective Services Recommended Minimum Program Standards and Practice Guidelines.*

The NAPSA APS Code of Ethics states that the Adult Protective Services program and staff promote safety, independence, and quality-of-life for older persons and persons with disabilities who are being mistreated or in danger of being mistreated, and who are unable to protect themselves. Every action taken by Adult Protective Services must balance the duty to protect the safety of the vulnerable adult with the adult's right to self-determination and older persons and persons with disabilities who are victims of mistreatment should be treated with honesty, caring, and respect by following these core principles:

- *Adults have the right to be safe.*

- *Adults retain all their civil and constitutional rights, i.e., the right to live their lives as they wish, manage their own finances, enter into contracts, marry, etc. unless a court adjudicates otherwise.*
- *Adults have the right to make decisions that do not conform with societal norms as long as these decisions do not harm others.*
- *Adults have the right to accept or refuse services.*

The APS policy and procedure manual contains the following mission statement:

The Department of Health and Hospitals, Office of Aging and Adult Services, Adult Protective Services is committed to preserving and protecting the rights of persons with disabilities in need of assistance due to abuse, neglect, self-neglect and/or exploitation, hereafter referred to as “abuse.”

In addition to their mission statement, Louisiana APS has a goal to “prevent, remedy, halt, or hinder abuse, neglect, exploitation, or extortion of individuals in need of services,” and a list of objectives that include principles such as maximizing client’s self-determination and dignity, promoting safe and caring environments for clients, maintaining high quality of life for clients, and least restrictive alternatives. The policy and procedure manual also contains a list of practice guidelines for staff.

INTAKE

REPORTERS

Louisiana “law requires reports to be made by any person having cause to believe that an adult's physical or mental health or welfare has been or may be further adversely affected by abuse, neglect, exploitation, or extortion (A/N/E/E). The terms "has been" and "may be" imply that the A/N/E/E may have occurred in the past or may reasonably be expected to occur in the future.”

PRIORITIES

Louisiana APS has the following priority levels and associated requirements:

Priority 1 (High): Face to face contact within 24 hours of case assignment

Reports alleging abuse, neglect, exploitation, or extortion, and the victim suffered serious harm or serious physical injury that, if untreated, could result in permanent physical damage or death. Policy provides examples of injuries and harm that would warrant a high priority. Physical and sexual abuse allegations are automatically high priority.

Priority 2 (Medium): Face to face contact within 5 business days of case assignment

Reports alleging abuse, neglect, exploitation, or extortion, and the victim is at risk of imminent serious physical injury or harm. Policy provides examples of injuries and harm that would warrant a medium priority.

Priority 3 (Low): Face to face contact within 10 business days of case assignment

Reports include all other allegations of abuse, neglect, exploitation, and extortion that do not involve risk of serious physical injury or harm. Priority 3 includes allegations of verbal and emotional abuse used to control the victim. Policy provides examples of injuries and harm that would warrant a low priority.

INVESTIGATION

AUTHORITY

Louisiana APS policy provides APS specialists guidance on preparing for the investigation, conducting interviews, assessing risk, formulating investigative findings, investigating in specific types of settings, and arranging protective services. APS Specialists are expected to conduct timely and thorough investigations of all allegations reported to APS, keeping in mind the purpose is to determine if the situation warrants protective intervention. Investigations include “a comprehensive assessment of the client’s situation, a decision regarding the client’s capacity, and determination of the level of risk to the client.” Specifically,

By law, investigation and assessment shall include: (a) the nature, extent and cause of any abuse, neglect, self-neglect, exploitation, or extortion, (b) the identity of the person or persons responsible, if known, (c) an interview with the client and (d) an assessment of the client’s home, and (e) consultation with other parties who may have knowledge of the facts of the case.

The policy and procedure manual provides additional protocols that apply to LDH facility investigations. It includes guidance on initial contacts, securing physical evidence, witness statements, the sequence of interviews, gathering documentary evidence, and using photos and diagrams to document physical evidence and injuries.

APS may seek an Order to enter the home or obtain access to the adult when entry or access is denied (after involving law enforcement), and there is known or perceived danger to an adult.

APS specialists may request law enforcement assistance for an initial visit or follow-up visits in cases where there is known or perceived danger, or any safety concerns. Reports of physical or sexual abuse are reported to the chief law enforcement office where the incident occurred at intake. In cases involving LDH facilities and programs, the CEO/Facility Administrator is responsible for notifying outside agencies, including law enforcement. The APS Specialist notifies law enforcement when any case involves possible criminal activity, and APS

cooperates with their investigation and may conduct a joint investigation with law enforcement.

Clients may refuse to be interviewed regarding allegations if they clearly demonstrate they have the capacity to consent to services and have not been adjudicated as incompetent. However, the APS Specialist is responsible for making every effort to assess the client's situation and determine if the allegations are correct. If a client asks the APS Specialist to stop the investigation, due to concern that it will make the situation worse, the APS Specialist must consult the supervisor.

Louisiana APS may pursue involuntary intervention if the APS Specialist and supervisor consider the findings regarding the client's capacity and level of risk and determine legal intervention is appropriate. "Orders to provide protective services require that the client lack capacity and be suffering harm (or likely to suffer harm) due to abuse if protective services are not provided, and no person with legal authority to consent to services is available or willing to do so". APS may seek an ex parte order to provide emergency protective services if the client is "at immediate and present risk of substantial harm or deterioration from abuse, neglect, or self-neglect and lacks the capacity to consent, or with the consent of an adult who has capacity."

CASE INITIATION

APS initiates a prompt investigation into reports of A/N/E/E. Case initiation is the first contact made by the Investigations Specialist or Supervisor to any person pertinent to the investigation.

The APS specialist contacts the reporter (if known) to verify or clarify the original report and address safety issues. If the APS Specialist cannot contact the reporter, they document the attempted contact and then make the face to face contact within the timeframe required by the case priority. "Appropriate case response means making a rapid, consistent, good faith, and documented effort to locate and protect the adult." APS Specialists must identify and immediately respond to any medical or life-threatening emergencies identified at intake or prior to the initial face to face contact by arranging appropriate services to resolve the crisis before completing the initial interview. Reports with allegations of physical or sexual abuse are reported to the chief law enforcement agency at intake.

In LDH Facility Investigations, "the investigation begins by contacting the reporter and other collateral informants for additional information about the allegation and client." The APS contacts the provider to assure measures have been taken to protect the resident or client from further harm. The APS policy and procedure manual provides guidance for initiating an investigation that varies based on the investigation setting.

CONDUCTING INVESTIGATION

The Initial investigation should include the following activities, at a minimum:

1. Efforts to contact the reporter, the client, and other persons
2. Emergency actions by the Specialist
3. Results of the initial risk assessment
4. Statements about the adult's capacity

APS Specialists may access any relevant records, reports, or other information pertinent to the APS investigation in accordance with HIPPA regulations and La R.S. 15:1507. The APS Specialist should consult the supervisor if they are unable to obtain client records.

Louisiana LDH policy allows information gathered while conducting department business to be shared among LDH offices, divisions and bureaus.

Louisiana APS investigations of abuse, neglect, self-neglect, exploitation, and extortion (A/N/E/E) of adults with disabilities, and/or LDH clients reported to APS include a comprehensive assessment of the client's situation and each allegation, a decision regarding the client's capacity, and a determination of the level of risk to the client. During the investigation and assessment phase of the case the APS specialist must identify each problem or risk factor contributing to A/N/E/E and determine what actions are needed to address them. APS conducts a pre- and post- risk assessment before the case is closed. The case summary of findings includes a comprehensive assessment of the client's situation, including the client's environment, mental status, physical condition, finances and social interactions.

The Louisiana APS policy and procedure manual provides guidance for investigation completion requirements that varies based on investigation type. In non-facility investigations, the investigations are expected to be completed within 30 days. An investigation is considered complete when enough information has been gathered for the Investigator to determine if the allegations occurred.

Policy guidance for investigations in LDH facilities and programs states:

Investigation reports must be completed within ten (10) working days from the date the incident was discovered, unless an extension has been granted. Health Standards requires that investigations be completed within five (5) working days, unless an extension has been granted. An Investigator unable to complete the investigation within the timelines requests an extension through the APS supervisor.

DISPOSITIONS

Louisiana uses preponderance as the standard of evidence for substantiating maltreatment in an APS investigation. The APS investigative decision findings codes are listed below for

Community non-licensed cases. The extant materials did not include specific findings codes for facility investigations.

Non-Licensed Cases

There are three finding codes used in non-licensed cases:

1. *Substantiated*
2. *Unsubstantiated*
3. *Non-finding*

Based on the investigative findings and assessment, a decision shall be made as follows:

1. *Substantiated A/N/E/E—A review of the facts and a preponderance of the credible evidence shows that abuse, neglect and/or exploitation has occurred or is occurring and that the adult needs protective services to remedy or stop the maltreatment.*
2. *Unsubstantiated—A review of the facts and a preponderance of the credible evidence in the investigation indicate that the alleged abuse, neglect, exploitation and/or extortion did not occur. No service plan is needed. However, referral(s) to appropriate services where indicated should be made and documented.*
3. *Non-finding—This finding is only appropriate when the investigation cannot be completed for one of the following reasons Unable to Locate the Adult, Deceased Adult, No Longer at Risk, or Does Not Meet Eligibility Criteria. The APS Specialist has completed all procedures, and there is not enough information to determine a regular finding on the case. A Non-Finding determination requires State Office approval.*

Facility Investigators provide all evidence and the completed written investigation report to the facility CEO/Facility Administrator (FA).

APS policy and procedure includes guidance that results in legal consequences for perpetrators, requiring APS Specialists to report to law enforcement when any case involves possible criminal activity. In investigations involving a Home and Community Based Services recipient, the APS Supervisor notifies the Home and Community Based Services program State Office of the investigation results.

POST-INVESTIGATIVE SERVICES

AUTHORITY

Louisiana APS develops service plans or interventions to alleviate abuse, neglect, exploitation, and extortion to vulnerable adults with disabilities by working in conjunction with other agencies or sources of support in the community responsible for providing a service or resource needed to reduce the risk to the adult.

During the investigation/assessment phase of the case, the Specialist shall identify the problems or risk factors contributing to the abuse, neglect, exploitation or extortion of the client. As each problem/risk factor is identified the Specialist shall determine what action is needed to address it. One of the tools used during this phase is the Risk Assessment Form.

In some cases, crisis intervention actions are taken immediately as the client is at imminent risk of harm. Case interventions can be anything from a court-ordered removal of a client to a referral to another agency.

Case interventions can include actions taken by the Specialist, other agencies, relatives or friends, caregivers or even by the client, which reduce risk or provide protection. Additional examples of case interventions include but are not limited to: changing the payee for client's Social Security and/or SSI check(s), placing the client in LDH custody, obtaining a restraining order, obtaining food, medicine, shelter or utilities for the client, assisting the client who voluntarily seeks medical treatment or law enforcement interventions, etc.

In cases where at least one of the findings is substantiated, a case intervention or an explanation of why there is no case intervention is the requirement.

In accordance to La R.S. 15:1508, the district attorney or adult protective services agency may apply for an order to:

Provide mandatory counseling for the parties involved to prevent further abuse or neglect of the adult.

1. Enjoin the parties contributing to the abuse or neglect of the adult from continuing such acts.
2. Have the adult receive a medical examination or psychiatric/psychological evaluation which will help to determine the least restrictive setting the adult may need.
3. Enjoin any party interfering with the provision of protective services to an adult from continuing such interference.
4. Provide protective services, if the adult lacks the capacity to consent to services, and the adult is suffering harm or deterioration or is likely to suffer harm or deterioration from abuse, neglect, or self-neglect, if protective services are not provided, and no other person authorized by law or by court order to give consent for the adult is available or willing to arrange for protective services. Such an order shall specify the services needed to protect the adult, which may include medical treatment, social services, placement in

a safer living situation, the services of law enforcement or emergency medical services to transport the adult to a treatment facility or safe living location and other services needed to protect the adult. Such an order shall be effective for a period of one hundred eighty days, but an order may be renewed one time for another one hundred eighty days and thereafter annually upon a showing to the court that continuation of the order is necessary to prevent further harm to the adult. However, admission to a mental health treatment facility shall be made only in accordance with the provisions of La R.S. 28:1 et seq.

5. In Community non-licensed cases, clients with capacity to consent may refuse services. Specialists must screen every client for capacity to consent to protective services, and obtain professional assessments as appropriate. When a client refuses services, the APS Specialist documents the refusal and the basis for the determination that the client has the capacity to consent. Capacity to consent documentation must include an indication that the client understands the allegations and potential consequences of refusing services, a signed refusal of services form, and statements from collaterals or medical professionals with knowledge of the client's capacity.

APPROACH

The Louisiana policy and procedure manual contains a list of objectives that include principles such as maximizing client's self-determination and dignity, promoting safe and caring environments for clients, maintaining high quality of life for clients, and least restrictive alternatives. The manual also contains a list of practice guidelines for staff that include recognizing "client differences such as cultural, historical and personal values and using least restrictive services first and community-based services rather than institutionally based services whenever possible."

APS provides a mechanism for staff to purchase items for clients, such as food, medication, water, and gas and electricity in extreme weather, if the client does not have the resources to purchase the needed services or items. If the APS Specialist is unable to obtain services for the client through government programs or community resources, the Specialist may seek approval to purchase the items needed. The purchase of service items is limited only to those clients in the most severe need, and must not be on an ongoing basis.

The Louisiana APS policy and procedure manual provides guidance for investigation completion requirements that varies based on the facility investigation setting. For investigations in LDH facilities and programs, investigation reports must be completed within 10 working days from the date the incident was discovered, except the cases under the jurisdiction of the Health Standards division that must be completed within 5 working days.

In Community Investigations, investigations should be completed within 30 days, and non-licensed cases should close within 120 days. The case should be closed when the situation is

stabilized (or as stable as possible), the client is no longer at risk (or risk is reduced as much as possible), or the client with capacity has refused further assistance. The following must be completed before case closure: all investigative activities, findings on all allegations, service delivery, follow-up risk assessment, documentation, and supervisor review and approval.

QUALITY ASSURANCE

Supervisors are required to provide guidance and approvals at required supervisory junctures and specific decision-making points of the APS investigation. Main decision-making junctures include case assignment, investigation planning, determining the investigation findings, service and legal planning provisions, and case closure.

APS enters into the database system all reports of abuse of vulnerable adults age 18-59, regardless of whether it meets the eligibility criteria for an investigation into the APS electronic database system. If the report meets the eligibility criteria, the Intake Specialist assigns an investigation to an APS Specialist for investigation.

APS uses data to establish performance baselines and targets, to track progress, monitor trends, and forecast fiscal and resource management. APS also provides state and federal reporting of its program data.

APS develops assessments and data reports to assist in the administration of the APS program and to share information about the program with others.

APS uses the following reports to assess and report performance:

- Casework Monitoring
- Regional Information Reporting
- Quarterly Program Data Reports
- Quarterly Quality Assurance
- Comprehensive Program Assessment
- Annual Program Report
- Louisiana Performance Accountability System (LaPAS) Reporting
- National Adult Maltreatment Reporting

Louisiana (Elderly)

Name of Agency	Louisiana Governor’s Office of Elderly Affairs
Name of Program	Elderly Protective Services (EPS)
Data Sources	Policy and Procedures for Elderly Protective Services (April 2021) NAMRS Agency Component Data Report 2020

CONTEXT

ADMINISTRATION

The Louisiana Adult Protective Services Act ([Revised Statutes, Chapter 15](#)) authorizes the Louisiana APS and EPS programs. The Louisiana EPS program is a state-run program currently administered by the Governor’s Office of Elderly Affairs (GOEA). In 2013 Louisiana combined an agency serving adults 60 and older and an agency serving adults 18-59 and emancipated minors to create an Adult Protective Services (APS) program for adults 18 and older⁴. In 2017, the EPS program was separated, and the administrative function of the program was returned to GOEA.

SCOPE

The Louisiana EPS client population is vulnerable adults 60 and older. Louisiana EPS investigates physical abuse, sexual abuse, neglect, self-neglect, emotional abuse, exploitation (financial and non-financial), and extortion. Abandonment and suspicious death are investigated as neglect and/or abuse allegations.

CONFIDENTIALITY

EPS case information and records are confidential. Case information may be released with written authorization from the client or the client’s legal representative. Certain information may be shared with law enforcement and medical/social service agencies to coordinate the provision of protective services for the client. EPS staff are expected to disclose only the minimum necessary information, when disclosure is required.

The reporter's identity is confidential except when disclosed to law enforcement or the Louisiana court system, as required by law.

⁴ In 2017, Louisiana is separating the elder and non-elderly programs. This profile is written for the combined programs.

GUIDING PRINCIPLES

Louisiana EPS policy and procedure manual states their EPS program is *guided by the National Adult Protective Services Association (NAPSA) Code of Ethics and the Adult Protective Services Recommended Minimum Program Standards and practice guidelines.*

The NAPSA APS Code of Ethics states that the Adult Protective Services program and staff promote safety, independence, and quality-of-life for older persons and persons with disabilities who are being mistreated or in danger of being mistreated, and who are unable to protect themselves. Every action taken by Adult Protective Services must balance the duty to protect the safety of the vulnerable adult with the adult's right to self-determination and older persons and persons with disabilities who are victims of mistreatment should be treated with honesty, caring, and respect by following these core principles:

- *Adults have the right to be safe.*
- *Adults retain all their civil and constitutional rights, i.e., the right to live their lives as they wish, manage their own finances, enter into contracts, marry, etc. unless a court adjudicates otherwise.*
- *Adults have the right to make decisions that do not conform with societal norms as long as these decisions do not harm others.*
- *Adults have the right to accept or refuse services.*

Louisiana EPS has a goal to prevent, remedy, halt, or hinder abuse, neglect, exploitation, or extortion of individuals in need of services, and a list of objectives that include principles such as maximizing client's self-determination and dignity, promoting safe and caring environments for clients, maintaining high quality of life for clients, and least restrictive alternatives. The policy and procedure manual also contains a list of practice guidelines for staff.

INTAKE

REPORTERS

Louisiana law requires reports to be made by any person having cause to believe that an adult's physical or mental health or welfare has been or may be further adversely affected by abuse, neglect, exploitation, or extortion (A/N/E/E). The terms "has been" and "may be" imply that the A/N/E/E may have occurred in the past or may reasonably be expected to occur in the future.

PRIORITIES

Louisiana EPS has the following priority levels and associated requirements:

Priority 1 (High): Face-to-face contact within 24 hours of case assignment.

Reports alleging abuse, neglect, exploitation, or extortion, and the victim suffered serious harm or serious physical injury that, if untreated, could result in permanent physical damage or death. Physical and sexual abuse allegations are automatically assigned Priority 1.

Priority 2 (Medium): Face-to-face contact within 5 business days of case assignment.

Reports alleging abuse, neglect, exploitation, or extortion, and the victim is at risk of imminent serious physical injury or harm.

Priority 3 (Low): Face-to-face contact within 10 business days of case assignment.

Reports include all other allegations of abuse, neglect, exploitation, and extortion that do not involve risk of serious physical injury or harm. Priority 3 includes allegations of verbal and emotional abuse used to control the victim.

Louisiana EPS policy provides separate guidance for priority levels for special investigations.

INVESTIGATION

AUTHORITY

Louisiana EPS policy provides guidance on preparing for the investigation, conducting interviews, assessing risk, formulating investigative findings, investigating in specific types of settings, and coordinating protective services. EPS Specialists are expected to conduct timely and thorough investigations of all allegations reported to EPS, keeping in mind the purpose is to determine if the situation warrants protective intervention. Investigations include a comprehensive assessment of the client's situation, a decision regarding the client's capacity, and determination of the level of risk to the client. Specifically,

By law, investigation and assessment shall include: (a) the nature, extent and cause of any abuse, neglect, self-neglect, exploitation, or extortion, (b) the identity of the person or persons responsible, if known, (c) an interview with the client and (d) an assessment of the client's home, and (e) consultation with other parties who may have knowledge of the facts of the case.

To improve access to information, EPS Specialists are expected to obtain signed release of information forms from clients who have capacity to consent, or their legal representative, during the initial face-to-face contact. If the EPS Specialist is denied access to the client, their home, or other location where an alleged incident took place, the EPS Specialist must explain the purpose of EPS involvement and the EPS Specialist's role, responsibility, and authority under Louisiana law, which "ensures access to the victim and location of the alleged abuse or neglect.

The EPS Specialist should emphasize that a face-to-face interview with the alleged victim, etc. is required by law. The EPS Specialist shall consult his/her Regional Supervisor to discuss legal intervention if the client may lack the capacity to consent and is denying the EPS Specialist entry.

EPS specialists must request law enforcement assistance for an initial visit or follow-up visits in cases where there is known or perceived danger, or any safety concerns for the client and EPS Staff. Cases with allegations of physical or sexual abuse are reported to the parish sheriff's office at the time of intake, and the EPS Specialist shall contact the sheriff's office as soon as possible after receipt of the report to determine if law enforcement is investigating the alleged incident. The EPS Specialist must report to law enforcement when any case involves possible criminal activity, and EPS shall cooperate with law enforcement in their investigation and may conduct a joint investigation with law enforcement.

Clients may refuse to be interviewed regarding allegations if the client clearly demonstrates he/she has the capacity to consent to services and has not been adjudicated as incompetent. However, the EPS Specialist is responsible for making every effort to assess the client's situation and determine if the allegations are correct. If a client asks the EPS Specialist to stop the investigation, due to concern that it will make the situation worse, the EPS Specialist must consult with his/her supervisor.

Louisiana EPS may pursue involuntary intervention if the EPS Specialist and EPS Supervisor consider the findings regarding the client's capacity, level of risk and have determined legal intervention is appropriate. Orders to provide protective services require that the client lack capacity and be suffering harm (or likely to suffer harm) due to abuse if protective services are not provided, and no person with legal authority to consent to services is available or willing to do so. EPS may seek an ex-parte order to provide emergency protective services if the client is at immediate and present risk of substantial harm or deterioration from abuse, neglect, or self-neglect and lacks the capacity to consent, or with the consent of an adult who has capacity.

CASE INITIATION

The Louisiana policy and procedure manual doesn't specify what constitutes case initiation in a Community Investigation, but the EPS Policy and Procedure Manual does provide guidance for action steps to prepare to investigate. The EPS specialist shall contact the reporter (if known) to verify and/or clarify the original report and address any safety issues or concerns. If the EPS Specialist cannot contact the reporter, the EPS specialist shall document the attempted contact and will make the face-to-face contact within the timeframe required by the case priority. Appropriate case response is when the EPS Specialist makes a rapid, consistent, good faith, and documented effort to locate and protect the adult. EPS Specialists must identify and immediately respond to any medical or life-threatening emergencies identified at intake or prior to the initial face-to-face contact by arranging appropriate services to resolve the crisis before completing the

initial interview. Cases with allegations of physical or sexual abuse are reported to the parish sheriff's office at the time of intake.

CONDUCTING INVESTIGATION

EPS Specialists must obtain "Release of Information" forms from the client, giving the agency permission to access any relevant records, reports, or other information pertinent to the case. Health care providers follow HIPPA guidelines and may only release information pertinent to the EPS case. If providers refuse to release information without a signed release of information form, the EPS Specialist should advise the provider that HIPPA permits release to protective service agencies and *LA R.S. 15:1507* states that EPS shall have access to any records or documents necessary to the performance of our duties. The EPS Specialist should consult the supervisor if they are unable to obtain client records.

Louisiana EPS investigations of abuse, neglect, self-neglect, exploitation, and extortion (A/N/E/E) of elders or adults with disabilities, and/or LDH clients reported to EPS include a comprehensive assessment of the client's situation and each allegation, a decision regarding the client's capacity, and a determination of the level of risk to the client. During the investigation and assessment phase of the case the EPS specialist must identify each problem or risk factor contributing to A/N/E/E and determine what actions are needed to address them. One of the tools used is the Risk Assessment Form and known risk factors are assessed using the APS Risk Assessment Matrix. A follow-up risk assessment must be completed before the case is closed. The case summary of findings includes a comprehensive assessment of the client's situation, including the client's environment, mental status, physical condition, finances and social interactions.

The Louisiana EPS policy and procedure manual provides guidance for investigation completion requirements that varies based on investigation type. Investigations are expected to be completed within 30 days. An investigation is considered complete when enough information has been gathered for the Specialist to determine if the allegations occurred.

DISPOSITIONS

Louisiana uses preponderance as the standard of evidence for substantiating maltreatment in an EPS investigation. The EPS investigative decision findings codes are listed below for Community non-licensed cases.

Non-Licensed Cases

There are four findings codes used in non-licensed cases:

1. *Substantiated*
2. *Unsubstantiated with concerns*
3. *Unsubstantiated*

4. Non-finding

Based on the investigative findings and assessment, a decision shall be made as follows:

Needs protective services—the investigation/assessment indicates that the situation and condition of the client warrants further action in the form of protective services intervention. This can be due to one of two findings outlined below: substantiated A/N/E/E and unsubstantiated with concerns regarding A/N/E/E.

1. *Substantiated A/N/E/E—A review of the facts and a preponderance of the credible evidence shows that abuse, neglect and/or exploitation has occurred or is occurring and that the adult needs protective services to remedy or stop the maltreatment.*
2. *Unsubstantiated with concerns re. A/N/E/E—A review of the facts and a preponderance of the credible evidence is inconclusive as to whether abuse, neglect and/or exploitation has occurred or is occurring. However, there are sufficient risk factors for A/N/E/E present in the client’s situation to cause concern that the client is at risk of harm from A/N/E/E even though the present allegation cannot be substantiated. Protective services are needed to reduce the risk and/or prevent the situation from becoming worse.*
3. *Unsubstantiated—A review of the facts and a preponderance of the credible evidence in the investigation indicate that the alleged abuse, neglect, exploitation and/or extortion did not occur. No service plan is needed. However, referral(s) to appropriate services where indicated should be made and documented.*
4. *Non-finding—This finding is only appropriate when the investigation cannot be completed for one of the following reasons Unable to Locate the Adult, Deceased Adult, No Longer at Risk, or Does Not Meet Eligibility Criteria. The APS Specialist has completed all procedures, and there is not enough information to determine a regular finding on the case. Supervisory and EPS Program Management approval must be obtained before a non-finding is used.*

EPS policy and procedure includes guidance that results in legal consequences for perpetrators, requiring EPS Specialists to report to law enforcement when any case involves possible criminal activity. In investigations involving a Home and Community Based Services recipient, the EPS supervisor shall send a letter notifying Louisiana Department of Health/Louisiana Health Standards and the Home and Community Based Services program of the investigation results.

POST-INVESTIGATIVE SERVICES

AUTHORITY

Louisiana EPS develops an intervention and service plan to alleviate A/N/E/E in Community non-licensed investigations, and service plans are developed with other entities in the community which are responsible for providing services. The EPS Specialist shall coordinate the needed services and shall make referrals for assistance through government funded programs, churches, civic organizations, etc. Services may be provided in cases with investigation findings of substantiated, unsubstantiated with concerns, or unsubstantiated.

Based on extant materials, no information is available on providing services to family members or perpetrators.

In Community non-licensed cases, clients with capacity to consent may refuse services. Specialists must screen every client for capacity to consent to protective services, and obtain professional assessments as appropriate. When a client refuses services, the EPS Specialist shall document the refusal and the basis for the determination that the client has the capacity to consent. Capacity to consent documentation must include an indication that the client understands the allegations and potential consequences of refusing services, a signed refusal of services form, and statements from collaterals or medical professionals with knowledge of the client's capacity.

APPROACH

The Louisiana EPS Policy and Procedure Manual contains a list of objectives that include principles such as maximizing client's self-determination and dignity, promoting safe and caring environments for clients, maintaining high quality of life for clients, and least restrictive alternatives. The manual also contains a list of practice guidelines for staff that include recognizing "client differences such as cultural, historical and personal values and using least restrictive services first and community-based services rather than institutionally based services whenever possible."

In Community Investigations, investigations should be completed within 30 days, and non-licensed cases should close within 120 days. The case should be closed when the situation is stabilized (or as stable as possible), the client is no longer at risk (or risk is reduced as much as possible), or the client with capacity has refused further assistance. The following must be completed before case closure: all investigative activities, findings on all allegations, service delivery, follow-up risk assessment, documentation, and supervisor review and approval.

QUALITY ASSURANCE

In Community non-licensed, the EPS Specialist must consult the supervisor before beginning an investigation that involves a client with three or more prior cases, unlicensed facilities, priority one cases, all cases referred to law enforcement at intake, or emergency intervention or removal cases. EPS Specialists review all open cases and returned cases, with their supervisor every month, and the supervisor documents the staffing of each case in the EPS database. The EPS Specialist must have a final case staffing with the supervisor, the supervisor checks electronic documentation for completeness and accuracy, and the supervisor must approve the case closure.

All investigations must be documented in the EPS database, as the case is processed. Documentation shall be complete, concise, accurate, and current.

The Louisiana EPS Policy and Procedure Manual contains a chapter on quality assurance. The QA program uses two techniques: individual case review and quarterly QA methods and procedures reviews of closed cases. QA identifies strengths and successful strategies, and recommends improvements and replication of effective practices, and recommends actions necessary to improve outcomes.

The Quality Assurance (QA) system monitors, evaluates and provides feedback to the agency on the performance of the protective service system and whether services provided are of sufficient intensity, scope and quality to meet the individual needs of our clients. It is intended to support workers, supervisors and management at every level within the agency, as well as support the development, implementation and refinement of the protective service delivery system

Maine

Name of Agency	Maine Department of Health and Human Services
Name of Program	Adult Protective Services
Data Sources	Maine APS Complete Statute NAMRS Agency Component Data FFY2020 Report Maine APS Website

CONTEXT

ADMINISTRATION

Title 22, Chapter 958 of the Maine Revised Statutes establishes the Maine Adult Protective Services Act. The Maine APS program is administered by the Office of Aging and Disability Services (OADS), within the Department of Health & Social Services. OADS was formed in August 2012 with the merger of two offices, the Office of Adults with Cognitive and Physical Disabilities (OACPDS) and the Office of Elder Services (OES). The APS program is a state administered program.

SCOPE

APS investigates reports of abuse, neglect, or exploitation or the substantial risk of abuse, neglect, or exploitation of any adult age 18 or older, who is incapacitated or dependent.

An incapacitated adult means:

An adult who is unable to receive and evaluate information or make or communicate informed decisions to such an extent that the adult lacks the ability to meet essential requirements for physical health, safety or self-care, even with reasonably available appropriate technological assistance.

A dependent adult means:

An adult who has a physical or mental condition that substantially impairs the adult's ability to adequately provide for that adult's daily needs... includes, but is not limited to, any of the following:

- *A resident of a nursing home licensed or required to be licensed*
- *A resident of a facility providing assisted living services licensed or required to be licensed*

- *A person considered a dependent person under Title 17-A, section 555; or*
- *A person, regardless of where that person resides, who is wholly or partially dependent upon one or more other persons for care or support, either emotional or physical, because the person suffers from a significant limitation in mobility, vision, hearing or emotional or mental functioning.*

APS investigates the following types of maltreatment: abandonment, emotional abuse, exploitation (non-specific), financial exploitation, neglect, physical abuse, self-neglect, sexual abuse, and suspicious death. Appendix B provides the definitions of maltreatment types.

APS investigates allegations in all settings and partners with other investigative agencies as appropriate.

CONFIDENTIALITY

Maltreatment reports and records are confidential while under the jurisdiction of the department. Within the department, the records may be made available only to and used by authorized departmental personnel and legal counsel for the department in carrying out their functions. However, the department may disclose relevant information in the records, with the protection for the identity of reporters and other persons when appropriate, to certain agencies or individuals inside and outside the department, at the department's discretion. The following agencies and individuals include:

- *An agency responsible for investigating a report of adult abuse, neglect or exploitation when the investigation is authorized by statute or by an agreement with the department;*
- *An advocacy agency conducting an investigation;*
- *A physician treating an incapacitated or dependent adult who the physician reasonably suspects may be abused, neglected or exploited;*
- *An incapacitated or dependent adult named in a record who is reported to be abused, neglected or exploited or the caretaker of the incapacitated or dependent adult;*
- *A person having the legal responsibility or authorization to care for, evaluate, treat or supervise an incapacitated or dependent adult;*
- *Any person engaged in bona fide research, provided that no personally identifying information is made available, unless it is essential to the research and the commissioner or the commissioner's designee gives prior approval. If the researcher desires to contact*

a subject of a record, the subject's consent must be obtained by the department prior to the contact;

- *Persons and organizations pursuant to Title 5, section 9057, subsection 6, and pursuant to chapter 857;*
- *A relative by blood, marriage or adoption of an incapacitated or dependent adult named in a record;*
- *A member of a panel appointed by the department or the Office of the Attorney General to review the death or serious injury of an incapacitated or dependent adult or a child;*
- *The local animal control officer or the animal welfare program of the Department of Agriculture, Conservation and Forestry established pursuant to Title 7, section 3902 when there is a reasonable suspicion of animal cruelty, abuse or neglect;*
- *The personal representative of the estate of an incapacitated or dependent adult who dies while under public guardianship or public conservatorship.*

The department is required to disclose relevant information in the records to the following:

- *The guardian ad litem of an incapacitated or dependent adult named in a record who is reported to be abused, neglected or exploited;*
- *A court on its finding that access to those records may be necessary for the determination of any issue before the court. Access must be limited to in camera inspection unless the court determines that disclosure of the information is necessary for the resolution of an issue pending before it;*
- *A grand jury on its determination that access to those records is necessary in the conduct of its official business;*
- *An advocacy agency conducting an investigation, regarding a developmentally disabled person or mentally ill person who is or who, within the last 90 days, was residing in a facility rendering care or treatment, when a complaint has been received by the agency or there is probable cause to believe that that individual has been subject to abuse or neglect, and that person does not have a legal guardian or the person is under public guardianship. The determination of which information and records are relevant to the investigation is made by agreement between the department and the agency.*

GUIDING PRINCIPLES

APS operates according to the following guiding values and practice guidelines:

- Protect incapacitated and dependent adults from abuse, neglect and exploitation and protect incapacitated and dependent adults in circumstances that present a substantial risk of abuse, neglect or exploitation;
- Prevent abuse, neglect or exploitation of incapacitated and dependent adults;
- Enhance the welfare of these incapacitated and dependent adults; and
- Promote self-care wherever possible.

INTAKE

REPORTERS

The following people are required to report to APS immediately when the person has reasonable cause to suspect that an incapacitated or dependent adult has been or is likely to be abused, neglected, or exploited (ANE):

- *Any person acting in a professional capacity in certain professions (listed below)*
- *Any person who has assumed full, intermittent or occasional responsibility for the care or custody of the incapacitated or dependent adult, regardless of whether the person receives compensation*
- *Any person affiliated with a church or religious institution who serves in an administrative capacity or has otherwise assumed a position of trust or responsibility to the members of that church or religious institution, while acting in that capacity, regardless of whether the person receives compensation; or*
- *Any person providing transportation services as a volunteer or employee of an agency, business or other entity, whether or not the services are provided for compensation.*

The full list of mandatory reporters includes:

- *Allopathic or osteopathic physician*
- *Medical resident or intern*
- *Medical examiner*
- *Physician's assistant*
- *Dentist, dental hygienist or dental assistant*
- *Chiropractor*

- *Podiatrist*
- *Registered or licensed practical nurse*
- *Certified nursing assistant*
- *Social worker*
- *Psychologist*
- *Pharmacist*
- *Physical therapist*
- *Speech therapist*
- *Occupational therapist*
- *Mental health professional*
- *Law enforcement official, corrections officer or other person holding a certification from the Maine Criminal Justice Academy*
- *Emergency room personnel*
- *Ambulance attendant*
- *Emergency medical technician or other licensed medical service provider*
- *Unlicensed assistive personnel*
- *Humane agent employed by the Department of Agriculture, Conservation and Forestry*
- *Clergy member acquiring the information as a result of clerical professional work except for information received during confidential communications*
- *Sexual assault counselor*
- *Family or domestic violence victim advocate*
- *Naturopathic doctor*
- *Respiratory therapist*
- *Court-appointed guardian or conservator*
- *Chair of a professional licensing board that has jurisdiction over mandated reporters*

The duty to report applies to individuals who must report to the department directly. A supervisors or administrators of the mandatory reporter may not impede or inhibit the

reporting, and a person making a report may not be subject to any sanction for making a report.

PRIORITIES

The priorities and requirements are associated with the type of referral. Referrals may result in one of several outcomes:

- *Priority Response Report – If APS Intake determines that the report involves an allegation of incapacity or dependency, and allegations of abuse, neglect, or exploitation, or substantial risk of abuse, neglect, or exploitation and one or more of the following criteria are met, the report is sent to the appropriate APS supervisor for review and initiation of the investigation within one business day.*
 - a. *Priority response criteria are: 1) Client is at immediate risk for sexual or serious physical abuse, regardless of setting, 2) situation suggests forensic evidence needs to be gathered immediately, 3) injury has occurred, and client is at risk for further injury, 4) client is without supervision and incapable of providing for own care, 5) client is threatened with immediate serious physical, emotional, or sexual abuse, 6) incapacitated adult is in need of emergency medical attention, and there is no substitute decision maker.*
- *Non-Priority Response Report - If APS Intake determines that the report involves an allegation of incapacity or dependency, and allegations of abuse, neglect, or exploitation, or substantial risk of abuse, neglect, or exploitation and no priority response criteria are met, the report is sent to the appropriate APS supervisor for review and initiation of the investigation within five business days.*
- *Reports may also be screened in by APS Intake for investigation if the report alleges the need for a guardian/conservator due to incapacity and substantial risk of abuse, neglect, or exploitation as a result or if the report involves the death of an incapacitated or dependent adult or if an administrative response is requested.*

INVESTIGATION

AUTHORITY

During the investigation, APS is authorized to access information through the issue of subpoenas requiring persons to disclose information or records in their possession that are necessary and relevant to the department – including, but not limited to confidential health care information. The department may apply to the District and Probate Courts to enforce a subpoena. APS may also obtain confidential criminal history record information that the department considers relevant to a case of alleged ANE.

When a dependent adult does not consent to the receipt of protective services, or if consent is withdrawn, the service shall not be provided by APS. If a private guardian or conservator of an incapacitated adult who consents to the receipt of protective services refuses to allow those services to be provided, the department may petition for the removal of the guardian or conservator.

CASE INITIATION

To initiate the case, reports of ANE must be made by telephone (via a state-wide 1-800 Intake phone number) to the department if the reporter is a mandated reporter. If requested by the department, initial reports must be followed by a written report within 48 hours. Members of the public who are not mandated reporters may make reports of ANE by telephone, fax, letter, or via an online form available on the Maine DHHS website.

The Maine Adult Protective Services Act requires that the department immediately notified reports of suspected ANE to the appropriate district attorney's office, whether or not the department investigates the report.

CONDUCTING INVESTIGATION

APS has the right to enter and access records of licensed facilities to obtain information necessary and relevant to an investigation of a report of suspected ANE or to a subsequent adult protective proceeding. The department has access to all records in possession of the facility that may be relevant to the investigation and is not required to issue a subpoena to the facility before obtaining access to the records.

Use of a structured decision-making safety assessment tool is required during the initial meeting with a client in all cases where a client can be located.

Broadly, APS requires that the APS case worker, once assigned, is responsible for conducting the investigation including an assessment of:

- *Safety: The caseworker assesses immediate client safety needs during the first in-person visit using a Structured Decision Making Safety Assessment Tool to identify factors affecting vulnerability, factors affecting safety, and, if necessary, creates a safety plan to support the client's immediate safety concerns during the pendency of the investigation.*
- *Capacity: The caseworker generally assesses a client's capacity to evaluate whether the client is able to receive and evaluate information to make and communicate decisions and assesses whether a formal, medical capacity assessment may be necessary, particularly if there is a concern that the client may require a guardian.*

- *Allegations: The caseworker conducts interviews, collects and reviews pertinent records, and coordinates with other agencies to reach findings on the specific allegations identified in the initial report and any other allegations that arise during the investigation.*

DISPOSITIONS

The required standard of evidence for substantiating an allegation of maltreatment as reported to NAMRS is preponderance of the evidence.

The categories and definitions for the dispositions of APS investigations include the following:

- *Allegations Substantiated—The allegations were found to be true based on the preponderance of the evidence standard. The case is closed when the danger is resolved or when services are arranged to assure safety.*
- *Allegations Unsubstantiated—The allegations were found to be untrue based on the preponderance of the evidence standard.*
- *Unable to Determine —There is insufficient evidence to substantiate the allegation.*

If the investigation finds that a person has abused, neglected, or exploited an incapacitated or dependent adult, resulting in serious harm, the department shall notify the appropriate district attorney or law enforcement agency.

When an individual has been substantiated at Level I as having abused, neglect, or exploited an incapacitated or dependent adult while in a caregiver role, the individual is listed in a database maintained by APS after the opportunity to appeal. A Level I substantiation includes sexual abuse or sexual exploitation; exploitation; intentional, knowing, or reckless causing of physical harm or pain or mental anguish through the infliction of injury, unreasonable confinement, intimidation or cruel punishment; intentional, knowing, or reckless abuse; intentional, knowing, or recklessly causing a threat to an individual's health or welfare; or intentional, knowing, reckless, or negligent engaging in abuse or neglect that results in serious harm.

POST-INVESTIGATIVE SERVICES

AUTHORITY

If the department determines that a vulnerable adult needs protective services, all other state and local agencies as well as private agencies receiving public funds shall cooperate with the department in rendering protective services to incapacitated and dependent adults. If the incapacitated and dependent adults do not consent to the receipt of protective services, or if he withdraws consent, the service shall not be provided. If the department reasonably determines that an incapacitated adult is being abused, neglected, or exploited and lacks

capacity to consent to protective services, the department may petition the Probate Court for guardianship or conservatorship as a last resort.

APS does not directly provide services to family member or perpetrators. APS will provide family members or perpetrators with information on available resources and services, as appropriate.

APPROACH

State policy authorizes only the least possible restriction on the exercise of personal and civil rights consistent with the person's need for services and to require that due process be followed in imposing those restrictions. State policy regarding timeliness of case closure is 30 days unless an extension is approved by a supervisor on a case by case basis.

APS does not receive budgeted funds for purchasing goods or services directly for victims.

QUALITY ASSURANCE

New APS staff are required to complete a series of onboarding trainings upon hire. APS supervisors conduct qualitative case readings using a standard case reading form. Aggregate data is reviewed by APS Central Office to identify patterns and trends and to assess whether APS is meeting program goals and complying with statutory and rule requirements

Maryland

Name of Agency	Maryland Department of Human Services
Name of Program	Adult Protective Services
Data Sources	NAMRS Agency Component Data FFY2020 Report APS Program Manual

CONTEXT

ADMINISTRATION

The Maryland Adult Protective Service Program is mandated by Family Law Article 88A, Annotated Code of Maryland. It is a county run program within Department of Human Services with the local departments being responsible for cases. Adult Protective Services provides support to vulnerable adults, aged 18 and older, who are incapable of protecting their own interests to protect their health, safety, and welfare and to decrease the risk of neglect, self-neglect, abuse, or exploitation.

SCOPE

APS provides services to vulnerable adults aged 18 years and older. A vulnerable adult is an adult who lacks the physical or mental capacity to provide for the adult's daily needs. The target population is limited to those adults who are at risk because they lack the physical or mental capacity to obtain or utilize services without support, or those who may not recognize that they are being abused, neglected or exploited in the community, including assisted living facilities, and adult daycare centers. APS makes every effort to stabilize the vulnerable adult in the adult's own home within the community through community support services that reduce risk factors. There is no income eligibility requirement for APS services.

APS does not have the authority to investigate in the following settings:

- A Mental health facility under Health-General Article, Title 10, Annotated Code of Maryland;
- A Facility for individuals with intellectual or developmental disabilities under Health-General Article, Title 7, Annotated Code of Maryland; or
- A nursing home or hospital under Health-General Article, Title 19, Annotated Code of Maryland.

APS investigates the following types of maltreatment: physical abuse, sexual abuse, neglect, exploitation, and self-neglect. Definitions of each can be found at in appendix B.

CONFIDENTIALITY

Unless statute or regulation allows for sharing of confidential information, APS must obtain the client's written permission to obtain information. The local department shall inform the referring party when the investigation begins and the name of the assigned caseworker. Local departments may not share information on a case unless it furthers the investigation or service provision. Information may be shared with law enforcement officials, or in accordance with a court order.

The identity of the reporter is confidential.

GUIDING PRINCIPLES

The APS program's objectives are to:

- *Assess, identify and reduce the level of risk for a vulnerable adult;*
- *Determine whether or not an individual is a vulnerable adult and is in need of protective services;*
- *Promote services to meet an individual's physical and/or mental health needs;*
- *Promote access to services to meet an individual's nutritional needs;*
- *Promote safe and adequate housing;*
- *Promote access to financial benefits to which the vulnerable adult may be entitled and assist in expending such funds in a manner that will provide for his/her wellbeing;*
- *Promote access to meeting social and recreational needs;*
- *Petition the court for the appointment of a guardian of person and/or property when necessary to protect the vulnerable adult's health, safety, and welfare;*
- *Serve as guardian of the person when no other remedy exists and no other person or agency is available;*
- *Coordinate and evaluate services provided to the vulnerable adult;*
- *Assist in protecting the vulnerable adult's rights by making referrals to appropriate legal resources and consulting with same;*
- *Foster familial relationships or informal support systems for the vulnerable adult's wellbeing;*
- *Develop a plan of care to increase safety and reduce risks factors.*

Underlying principles governing APS include vulnerable adults' right to protection from abuse, neglect and exploitation; competent vulnerable adults' right to self-determination, including the refusal of services; vulnerable adults' right to the least restrictive available alternative in

living situation and treatment; and responsibility for appropriate provision of services, safety, and wellbeing rests with the vulnerable adult, family, the total professional community and service systems, not solely with the local department.

Based on the extant materials, no information is available on if the State APS program has policies to ensure that the APS program is held to high standards of integrity.

INTAKE

REPORTERS

Health practitioners, police officers, and human service workers who contact, examine, attend, or treat an alleged vulnerable adult and who have reason to believe that the alleged vulnerable adult has been subject to abuse, neglect, self-neglect, or exploitation are required to report the local department. However, any concerned person may make such a report.

PRIORITIES

A vulnerable adult must be seen within 24 hours for situations of high risk of immediate harm; for referrals showing obvious emergency needs for department services such as housing or home health aide services, the department shall immediately begin arranging for such service provision. For non-emergency referrals case assignment shall be made according to local policy guidelines and client contact made within 5 working days after receipt of referral.

INVESTIGATION

AUTHORITY

Statute and policy provide authority for conducting the investigation. The policy guidance is:

Adult Protective Services investigation stage consists of activities, whereby in cases accepted for investigation, an intervention strategy for information gathering, crisis intervention, and risk reduction is planned or facilitated.

Each local department shall meet with the appropriate law enforcement agencies and State's Attorney's office to develop written agreements on procedures for joint investigation responsibilities and information sharing. (Program Regulations)

Statute provides for the following involuntary interventions:

If the Department believes that the client is disabled and the client is unable or unwilling to accept services necessary for the client's health, safety, or well-being and there is not a less restrictive form of intervention available, the director shall petition the court for:

- *An emergency order for protective services under the Estates and Trusts Article, Title 13, Subtitle 7, Annotated Code of Maryland, and Regulation .12 of this chapter;*
- *The appointment of a guardian of the person under the Estates and Trusts Article, Title 13, Subtitle 7, Annotated Code of Maryland, and Regulation .11 of this chapter; or*
- *The appointment of a guardian of the property under the Estates and Trusts Article, Title 13, Subtitle 2, Annotated Code of Maryland (Program Regulations)*

Based on the extant materials, no information is available on if an alleged victim can refuse an investigation.

CASE INITIATION

The purpose of an investigation is to determine vulnerability and to assess the risk of abuse, neglect, self-neglect and exploitation.

To protect the welfare of the alleged vulnerable adult the local department shall begin a thorough investigation:

- *Within 5 working days after the receipt of the report of suspected abuse, neglect, self-neglect, or exploitation; or*
- *Within 24 hours after the receipt of the report of suspected abuse, neglect, self-neglect, or exploitation if the report indicates that an emergency exists.*

The following notifications are required as needed:

When a report of suspected abuse, neglect, or exploitation of a vulnerable adult living in an Assisted Living Program is received by a Local Department of Social Services, the APS investigator will notify the Office of Health Care Quality (OHCQ) of the report within 24 hours of receipt of the report to the agency

Law enforcement must be informed if there is belief that a crime was committed against the client, or if there is a fear that there are safety issues for worker or client.

Based on extant material, there is not information on other requirements to initiate an investigation.

CONDUCTING INVESTIGATION

Policy outlines the goals and objectives of conducting investigations. These include determining the degree of risk to the alleged victim, the client's capacity to engage in services, and determining if legal intervention is necessary.

During the course of the investigation, the worker must make every effort to obtain the clients participation. The worker also makes collateral contacts with individuals, including any professionals, to information relevant to the investigation. This includes obtaining information from any service providers that have worked with the client.

The worker is required to assess the following:

- The client's physical appearance and ability to communicate;
- The safety of the physical environment;
- The social environment and the nature of the relationship(s) with caregivers and/or individuals with whom the client is living;
- The financial status and the availability of resources of the client;
- Any unique characteristics like language, communication barriers, ethic or culture variances;

APS investigation shall include a decision about the seriousness of the risk for the client considering their capacity and living situation. It shall also include a decision concerning the ability/willingness of the client to make responsible decisions about their health and wellbeing.

The worker shall request evaluations from community resources regarding the client's ability to make responsible decisions concerning health and wellbeing when appropriate

The local department shall complete an investigation:

- Within 60 days of the receipt of the report; and
- Within 10 days of the receipt of the report, if the report indicates that an emergency exists.

Based on extant material, there is no information on accessing records of other professionals or organizations.

DISPOSITIONS

The local department shall finalize the investigation and determine whether the report is ruled out and no services are necessary; ruled Out or Indicated, but referral to a service in the local department or the community is appropriate; confirmed or indicated and protective services are necessary; confirmed or indicated but the client refuses services and is competent to make decisions; or confirmed and the client refuses services and guardianship is appropriate.

Based on the extant materials, no information is available on the standard of evidence for substantiating an allegation of maltreatment, who receives the results of an investigation, or if there are any legal consequences for a substantiated perpetrator

POST-INVESTIGATIVE SERVICES

AUTHORITY

Services are provided to client's who have been determined to be at risk of abuse, neglect or exploitation. Eligibility for services is solely based on defined need for service. The investigation can be terminated when a client needs APS but declines services and can make and communicate decisions on their behalf.

Based on the extant materials, no information is available on if APS provides services to perpetrators or family members.

APPROACH

The goal of continuing case management is to offer the least restrictive and least invasive mode of service intervention, to minimize dependence on the system and maximize an individual's control over their own life. Policy further outlines the goals and objectives of continuing case management.

Case management services are provided for up to 6 months unless the supervisor approves an extension of services. The functions of case management are assessment, planning, linking with services, monitoring the client's progress, and advocating for the client as needed. The worker develops a service plan with the client to document the client's strengths and needs, services to be provided, and measurable objectives with timeframes for reducing risk to the client. Types of services provided include but are not limited to:

- *Home care and chore services as provided for in the In-Home Aide Services regulations under COMAR 07.06.12;*
- *Adult day care provided by contractual arrangement with the Maryland Department of Health and subject to that Department's regulations, limitations, and eligibility schedules;*
- *Transportation provided through the In-Home Aide Services program, or any transportation available from community resources or governmental agencies in the local subdivision;*
- *Emergency arrangement of food or shelter as available from resources such as:*
 - *Federal, State, or local programs, or*
 - *Private providers;*

- *Provision of any recommendation, reports, or petitions concerning the adult in need of protective services to the court;*
- *Legal assistance including assistance to arrange for purchase of counsel with the vulnerable adult's own resources when the adult is not eligible for legal services from any other source.*

The local department may help the resident in an assisted living program with relocation to another one, upon notification by the Office of Health Care Quality, or the assisted living manager of the emergency removal of a resident or the emergency suspension or revocation of a facility's license.

Limited funding is available for these services.

Based on extant material, there is no information on whether services are provided to family members or alleged perpetrators.

QUALITY ASSURANCE

The worker develops an investigation plan and consults with their supervisor as needed. The investigation disposition must be approved by the supervisor.

The case record consists of the investigation findings and all documentation to support the finding including prior APS involvement, case plans, staffing notes, and facility records.

Based on the extant materials, no information is available on quality assurance activities for the APS program.

Massachusetts (Disabilities)

Name of Agency	Disabled Persons Protection Commission (DPPC)
Name of Program	DPPC
Data Sources	Massachusetts Statute for DPPC (M.G.L.c.19C) NAMRS Agency Component Data FFY2020 Report

CONTEXT

ADMINISTRATION

Chapter 19C of the Massachusetts General Laws establishes the Disabled Person Protection Commission (DPPC), with additional guidance provided in 118 CMR (Code of Massachusetts Regulations). DPPC is a state agency responsible for the investigation and remediation of abuse committed against adult persons with disabilities in the Commonwealth. The DPPC statute fills the gap between the Department of Children and Families (DCF) (through the age of 17) and the Executive Office of Elder Affairs (EOEA) (age 60 and over) statutes.

SCOPE

DPPC investigates abuse allegations involving 18-59-year-old adults with disabilities across all settings (except skilled nursing care facilities and medical hospitals), these include, but are not limited to, private homes, residential care facilities, state hospitals, schools, and prisons.

DPPC's jurisdiction includes adults with disabilities between the ages of 18 and 59, who are within the Commonwealth whether in state care or in a private setting and who suffer serious physical and/or serious emotional injury or abuse *per se* through the act and/or omission of their caretaker(s).

Jurisdiction to investigate abuse under DPPC's governing statute is as follows: the suspected abuse must be to a person with a disability between the ages of 18 - 59, who has sustained a serious physical injury and/or serious emotional injury or abuse *per se*, as the result of an act or omission by their caretaker(s).

DPPC investigates the following types of abuse: emotional abuse, exploitation (non-specific), neglect, physical abuse, sexual abuse and abuse *per se*. Unlike many APS programs, DPPC does not have jurisdiction to investigate financial exploitation or self-neglect.

CONFIDENTIALITY

Information gathered and maintained by the DPPC is primarily confidential, including personally identifying information of the adult with a disability, the alleged abuser, and the reporter.

Relevant case information may be released for civil or criminal legal proceedings, or regulatory proceedings. For these purposes, information may be released to the Attorney General or Assistant Attorney General, county District Attorney, or appropriate regulatory agency. Individuals mentioned in an investigation report, including but not limited to the person with a disability and the alleged abuser, or their respective legal representatives, may request the portion of the investigation report in which he or she is mentioned. If the Commission decides to release information, personally identifying or confidential information regarding the reporter is redacted.

GUIDING PRINCIPLES

The DPPC has an established set of procedures and standards which are utilized to effectuate the purposes of the Commission including but not limited to, the investigation and remediation of abuse of persons with disabilities who reside in the Commonwealth of Massachusetts, or of non-resident persons with disabilities who are abused while in the Commonwealth of Massachusetts, and the investigation and remediation of instances of retaliation against a person for having reported such abuse or cooperated in the investigation of abuse. In pursuing its statutory purposes, the Commission shall endeavor to respect the privacy, self-determination rights and dignity of persons with disabilities.

INTAKE

REPORTERS

Mandated reporters are required by law to report cases where there is a reasonable cause to believe that a person with a disability is suffering from a reportable condition of abuse or neglect. Other persons who are not mandated to report may choose to file reports of suspected abuse. Mandated reporters are required to immediately make an oral report to the Commission's hotline regarding the suspected abuse. In addition to making the oral report, a reporter shall send a written report to the Commission. Mandated reporters include the following:

- Person employed by a state agency within the Executive Office of Health and Human Services including but not limited to employees of the
 - Department of Developmental Services
 - Department of Mental Health
 - Massachusetts Rehabilitation Commission

- Person employed by a private agency providing services to persons with disabilities
- Physician
- Medical intern
- Hospital personnel engaged in the examination, care or treatment of persons with a disability
- Medical examiner
- Dentist
- Psychologist
- Nurse
- Chiropractor
- Podiatrist
- Osteopath
- Public or private school teacher
- Educational administrator
- Guidance or family counselor
- Day care worker
- Probation officer
- Animal control officer
- Social worker
- Foster parent
- Police officer

118 CMR provides additional guidance regarding mandated reporters:

A mandated reporter is required to report suspected abuse without regard to professional privileges established by statute, code of ethics or court decision. However, no mandate to report exists after a person with a disability invokes a privilege established by law or professional code and thereby requests that a

report not be made. The invocation of such a privilege by a person with a disability shall convert a mandated reporter to a non-mandated reporter.

Mandated reporters and non-mandated reporters are immune from civil or criminal liability because of filing a good faith report of abuse committed against a person with a disability. If a mandated reporter is retaliated against by their employer for filing a report, or for participating in a DPPC investigation, DPPC will investigate the retaliation.

The penalty for failure of a mandated reporter to report may result in a fine of up to \$1,000.

PRIORITIES

DPPC determines the urgency of all reports it receives based on the information available at the time of screening. The urgency of these reports shall be classified as emergency or non-emergency.

Emergency is defined as a situation involving an allegation of the presence of imminent serious physical injury or serious emotional injury, or both, to a person with a disability that requires an immediate response to protect the person with a disability from such serious physical injury or serious emotional injury or abuse *per se*. Emergencies require the immediate referral of the case to the appropriate agency to ensure immediate action is taken to end the emergency, and subsequent referral of the report for investigation, if appropriate. In addition, the investigator is required to conduct and complete an initial response within 24 hours of the investigating agency's receipt of the report. The investigator shall subsequently prepare and submit to the Commission an investigation report. If the report concerns a situation involving an immediate danger to the alleged victim, the Commission shall take appropriate steps to end the abusive situation including, but not limited to, calling local police authorities or referring the report for the delivery of protective services before making a screening decision.

A non-emergency is a situation of alleged abuse that is not an emergency. Non-emergencies are referred to the appropriate agency within 24 hours of the day the report was received; or the next business day if the report is received during non-business hours.

INVESTIGATION

AUTHORITY

Abuse reports received by DPPC that may involve a potential crime against the adult with a disability who is the subject of the report are referred to the DPPC's State Police Detective Unit (SPDU), to the appropriate District Attorney or the local police department to ensure the safety of the victim with a disability.

If the Commission requires access to information from a mandated reporter or a mandated reporter's employer acting as custodian of the documents, it is granted access to all information

plainly not irrelevant to the matter under investigation, including but not limited to, the following information: medical and clinical records; incident reports filed to any state agency; relevant portions of the case records of any person with a disability provided services and involved in the matter under investigation; any restraint forms completed in connection with any person with a disability who is involved in the matter under investigation; personnel records; any policies, procedures or guidelines of the state agency or of the service provider involved in the matter under investigation or employing the alleged abuser; any existent photographs of any physical injury or property damage; any documents relating to previous cases involving the alleged victim or the alleged abuser; and any other documents specifically identified by the investigator and which are plainly not irrelevant to the matter under investigation.

If the Commission believes that an emergency exists regarding the alleged victim and they need protective services, it may petition the court for an emergency order of protective services. If emergency protective services are issued, the emergency order must state the services to be provided and designate an individual or agency to be responsible for performing or obtaining the services required by the person with a disability.

An alleged victim may refuse to cooperate with an investigation. The assigned investigator will complete the investigation based on other sources of information with the understanding that the lack of cooperation of the alleged victim may affect the outcome of the investigation. In addition, a victim (with capacity) may refuse protective services.

CASE INITIATION

To initiate a case, DPPC's Intake Unit will gather all available information and make a screening decision and assignment of the investigating agency and protective service agency. DPPC's State Police Detective Unit also reviews all allegations to determine if there is an allegation of criminal activity.

Requirements for case initiation involve several processes: screening, determination of jurisdiction, and case initiation.

Screening includes:

Immediately upon its receipt, a report of abuse of a person with a disability shall be evaluated to determine: whether the Commission has jurisdiction over the complaint; the urgency of the complaint; and the appropriate action to be taken by the Commission. If the Commission is unable to make a screening decision based upon the information received from the reporter, the Commission shall immediately seek such further information as is necessary to facilitate the making of such a decision.

Determination of Jurisdiction:

Based upon the information contained in any report received and any additional information otherwise obtained by the Commission, the Commission shall determine whether it has jurisdiction over the matter reported. A jurisdictional determination shall be based upon the following factors: whether the alleged victim is a person with a disability; whether the alleged abuser is a caretaker of the alleged victim; and, whether it appears the acts or omissions of the alleged victim's caretaker have resulted in the alleged victim suffering serious physical injury or serious emotional injury, or both, or because of the nature of the caretaker's act or omission it is reasonable to conclude that abuse per se may have occurred.

Initiation of a case: Once all screenings are complete, the case is distributed to the designated liaisons at the assigned investigating agency, protective service agency and the district attorney, when appropriate. In emergency case, the APS worker should have face-to-face contact within 24 hours. Non-emergencies have face-to-face contact within 72 hours. An initial response document is due within 10 days and the final report within 30 days.

All cases that are screened in for investigation are also assigned to one of DPPC's oversight officers to monitor the investigation and ensure that any necessary protective services measures necessary to protect the alleged victim are implemented during and after the investigation.

CONDUCTING INVESTIGATION

The DPPC uses a standardized intake, initial response form (addressing risk) and investigation report form. DPPC's intake form contains a risk assessment section to assist in determining the urgency of the response.

The department requirements of abuse investigations include: an interview with the person with a disability who was allegedly abused; a visit to and evaluation of the site of alleged abuse; a determination of the nature, extent, and cause of the injuries; use of the preponderance of evidence standard to substantiate or unsubstantiate the existence of abuse; a determination or confirmation of the identity of the alleged perpetrator; a determination of the identity of the person(s) who was/were responsible for the health of the alleged victim; an initial assessment of the immediate protective service needs; and an interview with all available witnesses to the abuse.

When the department conducts an investigation, they must review and obtain copies of all documents relevant to the investigation from a mandated reporter or a mandated reporter's employer acting as custodian of the documents. As such, professionals or organizations must provide access to records relevant to the incident being investigated, including but not limited to:

- Medical and clinical records (pertaining to any injury sustained by any person with a disability)
- Incident reports filed as a requirement of any state agency
- Case records of any adult with a disability who was provided services
- Restraint forms
- Personnel records
- Any policies, procedures, or guidelines of the state agency or of the service provider involved
- Any existent photographs or any physical injury or property damage

The time to complete an investigation is 30 days.

DISPOSITIONS

The required standard or evidence for substantiating an allegation of abuse is preponderance of the evidence.

If, during the course of completing the Initial Response, the investigator determines there is a lack of jurisdiction, the case may be closed at the Initial Response stage with a finding of unsupported.

After the investigation is concluded, the DPPC will compile the facts into a written report that either substantiates or unsubstantiates the abuse and/or neglect. The results of the investigation are shared with the appropriate state service providing agency so that an assessment may be completed to determine whether any additional services or actions are needed.

The DPPC allows for the release of information to any person who is mentioned in an investigation report. However, this information is limited to that portion of the investigation report in which he or she is mentioned. To obtain a copy of such information, the person mentioned, including the adult with a disability, the alleged abuser, or their respective legal representatives, must file a written request with the DPPC.

The investigator may believe that a violation of state statutes and/or regulations may exist. If the investigator suspects such a violation, they “may make recommendations regarding actions needed to remedy the suspected violation including, but not limited to, referral of the matter to the appropriate agency of the Commonwealth that has jurisdiction over the violation. The investigator may also make recommendations for remedial actions based upon the statutory and regulatory authority of the agency conducting the investigation for the Commission.” The Commission forwards “a copy of the investigation report to the appropriate agency within the

Executive Office of Health and Human Services and any other agency of the Commonwealth, including but not limited to the Attorney General or appropriate District Attorney, who has jurisdiction over the alleged victim, the matter under investigation, or jurisdiction over professional misconduct, for possible prosecution or the imposition of remedial or disciplinary measures in accordance with the requirements of any applicable law or regulation.”

Upon completion of an investigation, when the caretaker of the victim is a state agency, the Commission may initiate a formal investigation when there is a substantiated finding or if the Commissioners determine a formal investigation is in the best interests of persons with disabilities to determine the scope, remedy, and recommendations. Once the formal investigation is completed, the matter may be referred to the licensing agency, the Executive Office of Health and Human Services, and to any other agency that has requested notification.

POST-INVESTIGATIVE SERVICES

AUTHORITY

If the Commission determines that a person with a disability needs protective services, the appropriate service providing agency is contacted for referral. The services include, but are not limited to, social casework, case management, arranging for medical/psychiatric evaluations, home care, day care, social service, health care and other services as may be required to ensure that the person with a disability is protected from abuse and that the effects of abuse are remediated.

Unless the person with a disability has been found incapacitated and/or protective services are being implemented pursuant to a court order, the person with a disability may refuse any or all protective services.

DPPC was established to provide for the protection of individuals with disabilities. It has no jurisdiction to provide services to people who are not alleged to be persons with disabilities who have been abused, this includes family members or perpetrators.

APPROACH

Protective services should be provided by agencies of the Commonwealth in the least restrictive manner possible; and be provided to protect a person with a disability from abuse, to remedy the effects of abuse and to respond to the underlying abusive situation, to the extent possible. The APS program in Massachusetts has a trauma-informed approach.

DPPC is not a service providing agency and does not have budget funds to purchase services for the victims, but the service providing agencies (DDS, DMH and MRC) do, and DPPC works closely with each of these agencies throughout the screening and investigation process to ensure that appropriate protective services are in place.

DPPC's oversight unit will close a case only when an investigation is complete, and all necessary protective services have been put in place to remediate the abuse.

QUALITY ASSURANCE

Every investigation is supervised by an investigations manager during the course of the investigation. Prior to submission to DPPC's oversight unit for final review, the investigations manager must review and approve the investigation.

DPPC was designed as an oversight agency and has a robust oversight unit that is responsible for ensuring that investigations are completed in accordance with statutory and regulatory requirements and that appropriate protective service actions are taken. 100% of all investigations conducted under the jurisdiction of M.G.L.ch.19C go through a thorough review process by an assigned oversight officer, in consultation with his/her supervisor. The oversight unit ensures that the investigator thoroughly investigated the allegation, conducted a thorough risk assessment, made appropriate findings of fact and conclusions, and made appropriate recommendations for protective services necessary to remedy substantiated abuse.

If it is determined that additional information is required to complete an investigation, the oversight officer communicates directly with the investigator to ensure that further information is obtained to ensure a thorough and timely investigation is completed.

Massachusetts (Elder Affairs)

Name of Agency	Executive Office of Elder Affairs
Name of Program	Protective Services
Data Sources	Massachusetts Code of Regulations NAMRS Agency Component Data FFY2020 Report Executive Office of Elder Affairs

CONTEXT

ADMINISTRATION

The Protective Services (PS) program (M.G.L. c. 19A, §§ 14-26) is administered by the Executive Office of Elder Affairs (the Department). The PS program is administered through a series of contracts. The Department contracts with one agency to function as the Central Intake Unit (CIU) and receive reports 24 hours per day, seven days per week. The Department also contracts with a network of non-profit agencies across the state to respond to reports of abuse. The Department has designated 19 Protective Services Agencies (PSAs) throughout the Commonwealth. Each PSA operates within its assigned geographic service area and investigates reports of abuse. State law defines elder abuse as physical, emotional and sexual abuse, neglect by a caregiver, self-neglect and financial exploitation. The goal of protective services is to remedy or alleviate an abusive situation and to prevent the reoccurrence of abuse.

SCOPE

PS investigates reports of abuse for any adult who is: (1) 60 years of age or older, and (2) does not reside in an infirmary maintained in a town, convalescent or nursing home, rest home, charitable home for the aged or intermediate care facility for persons with developmental disabilities. The Department does not have jurisdiction over allegations of abuse where the individual resides in a long-term care facility or other licensed health care facility. The program defines an eligible elder for protective services as:

An elder who, as a result of an investigation by a protective services agency, has been determined to be suffering from a reportable condition, is in need of one or more protective services, and has themselves consented to the provision of one or more protective services.⁵

⁵ 651 CMR 5.02

CONFIDENTIALITY

All records containing personal data are governed by M.G.L c 66A, Fair Information Practices. Data subjects can get access to information regarding themselves, or consent to the release of their information to 3rd parties. Appropriate third-party agencies and individuals authorized by statute or regulations may gain access to personal data when necessary in connection with investigation or judicial proceedings. Documentation provided to a district attorney on criminal matters must preserve the confidentiality of personal data held in such case files, especially regarding the confidentiality of the identity of the reporter of abuse.

GUIDING PRINCIPLES

The Department recommends the ACL Guiding Principles to all PSAs.

INTAKE

REPORTERS

To encourage elder abuse reporting, Massachusetts state law requires certain professionals to report suspected incidents of elder abuse. Persons who are not mandated reporters may also make elder abuse reports. Mandated reporters who fail to make elder abuse reports when appropriate are subject to a fine of up to \$1,000. Mandated Reporters include the following individuals:

Mandated Reporter Subject to Fine: Any physician, physician assistant, medical intern, dentist, nurse, family counselor, probation officer, social worker, police officer, firefighter, emergency medical technician, licensed psychologist, coroner, registered physical therapist, registered occupational therapist, osteopath, podiatrist, director of a council on aging, outreach worker employed by a council on aging, executive director of a licensed home health agency or executive director of a homemaker service agency or manager of an assisted living residence who has reasonable cause to believe that an elder is suffering from or has died as a result of a reportable condition.⁶

Mandated Reporter Not Subject to Fine: Any executive director of a home care program who has reasonable cause to believe that an elder is suffering from or has died as the result of a reportable condition. Any homemaker, home health aide, case manager or other staff of a home care program, licensed home health agency, or homemaker service agency who is not a licensed social worker, nurse, licensed psychologist, or family counselor, who has reasonable cause to believe

⁶ 651 CMR 5.02

that an elder is suffering, or has died from a reportable condition, shall be included in this category.⁷

The identity of the reporter remains confidential except when a case is forwarded to the district attorney or other governmental agency in accordance with established regulations or court order.

PRIORITIES

Reports of abuse are categorized into one of three levels: Emergency, Rapid Response, or Routine.

For an emergency report, the worker must immediately initiate the investigation and assess the emergency needs of the Elder within 24 hours of receipt of the report. As part of this assessment, the worker must determine whether an in-home visit and/or other response is needed and initiate such response within 5 hours of the receipt of the report. The worker must subsequently provide services to alleviate the emergency condition. Where appropriate, such services may include a petition to the court for an emergency order of protective services. If the response does not entail an immediate in-person visit, the worker must complete an in-person visit within 5 days of receipt of the report. The investigation must be completed within 30 days of receipt of the report.

For a Rapid Response reports, the worker must immediately initiate the investigation and determine the need for an in-home visit and/or other response and initiate this response within 24 hours of the receipt of the report. Within 72 hours from the receipt of the report, the worker must assess the Rapid Response needs of the allegedly abused elder. The worker must subsequently provide services where appropriate to alleviate the Rapid Response situation. If the response does not entail an in-person visit the worker must complete an in-person visit within 5 days of receipt of the report. The investigation must be completed within 30 days of the receipt of the report.

For Routine reports, the worker must immediately initiate the investigation and make an in-home visit or in-person interview with the elder within 5 days of receipt of the report. The investigation must be completed within 30 days of the receipt of the report.

⁷ 651 CMR 5.02

INVESTIGATION

AUTHORITY

The alleged victim may refuse to participate in the investigation by the PS agency so long as the elder has decisional capacity. However, if an elder with decisional capacity refuses to participate in the investigation, the investigation can proceed without the elder's participation.

If the PS agency has reasonable cause to believe that: (1) access to an elder has been barred by another person; (2) an elder is believed to lack decisional capacity; or, (3) an elder lacks decisional capacity and is in need of protective services, the PSA may petition the court.

Protective orders may be sought if the PSA has reasonable cause to believe that the Elder has been barred by any person, the elder is either believed to lack the capacity to consent or lacks the capacity to consent and the following conditions are met: a reportable condition exists, the elder is in need to services; an attempt has been made to obtain consent, consent was not obtained because the elder may lack the capacity to consent or was found to lack consent after a medical/competency evaluation, the risk to the elder is serious enough to warrant court intervention; and, supervisory approval for the court action is obtained.

Both Emergency and Non-Emergency protective orders can be obtained through the court.

CASE INITIATION

Reports are made by calling into the CIU or using the Department's online web intake form. At the time a report is received, the CIU worker requests an oral report from the mandatory reporter and instructs the mandated reporter to submit a written report to the local PSA within 48 hours. Upon receipt of an oral report, the CIU worker must confirm that an alleged victim is 60 years or older and that the abuse did not occur in a long-term care facility. Based on information provided to CIU, the CIU worker assesses whether the allegations meet the definition of one or more reportable conditions. Upon completion of the report, the CIU worker immediately notifies the local PSA that is responsible for responding to the report of abuse. Local PSAs are responsible for responding to emergency and rapid response reports of abuse on 24 hour per day, seven day a week basis. For non-emergency reports, the PSA responds by the next regularly scheduled business hours.

CONDUCTING INVESTIGATION

The PS investigation includes an assessment of the allegations of abuse reported and an evaluation of the condition of the elder:

The investigation shall include, but not be limited to, the following: content; the identity of the allegedly abused elder; the nature, extent, and cause(s) of the alleged serious physical or emotional injury or financial exploitation; the

identity of the person(s) or support system of caretakers alleged to be responsible for the alleged injuries; a determination of the Decisional Capacity, functional capacity and a determination of the social, physical, and emotional needs of the elder; all information necessary to determine if any reportable condition exists; and the investigation summary shall address all allegations reported and all additional types of abuse identified during the investigation whether or not the completed investigation resulted in reasonable cause to believe that abuse exists.⁸

The PS investigation includes: one or more visits to the elder’s residence; an assessment of need via interviews with the elder or other members of the elder’s household; interviews with collateral contacts and with other service agencies; and, interviews with other professionals and other individuals involved with the elder. The timeframe for completing an investigation is within 30 days.

DISPOSITIONS

The standard of evidence for substantiating an allegation of abuse is reasonable cause to believe.

After the investigation is concluded, mandatory reporters are notified in writing of the action taken in response to the report within 45 calendar days of the report. Other reporters are notified only upon request.

If the report is substantiated, the PS caseworker opens the case for the provision of services. If the report is unsubstantiated, the PS caseworker expunges records within three years of such determination.

If the PSA has reasonable cause to believe that the elder died as a result of abuse or if a reportable condition is substantiated and an investigation results in a determination of the elder has suffered a reportable condition, the case is reported to the local District Attorney:

Conditions reportable to the district attorney by the PS agency pursuant to shall include, but not be limited to, the following: death; brain damage; loss or substantial impairment of a bodily function or organ; fracture of a bone; any serious or intentional burns; disfigurement; sexual assault, rape, sexual misuse or sexual exploitation; serious physical injury as the result of a pattern of repetitive actions; soft tissue swelling or skin bruising or tears depending on such factors as the elder's physical condition, circumstances under which the injury occurred, and the number and location of bruises; significant,

⁸ 651 CMR 5.10 (1) (a-f)

unexplained weight loss; symptoms resulting from the use of medications or chemical restraints or the withholding of life sustaining medications); any other non-trivial injury. pressure ulcers that pose a serious medical risk for the Elder; financial exploitation which involves possible criminal conduct, including but not limited to, the crimes of larceny by stealing, larceny by false pretenses, larceny from the person, larceny by embezzlement, larceny by check, forgery, uttering and extortion, and which possible criminal conduct substantially and seriously affects the financial situation of the elder;

Threats of abuse in which the protective services agency has reasonable cause to believe that an individual may have the intent and capacity to carry out the following: threat to kill the elder or threat to physically harm the elder.⁹

POST-INVESTIGATIVE SERVICES

AUTHORITY

Protective Services, subject to appropriation, include, but are not limited to: the capacity to provide or arrange for home care services; legal assistance; counseling; protective order through the court; and, the capacity to petition the court for guardianship and conservatorship.

If the department determines that protective services are needed, clients have the right to consent or refuse services if they have decisional capacity. Upon refusal to consent, the PS caseworker must notify the elder of the availability of services should they decide to consent at a future time and close the protective services case. If the client lacks decisional capacity, an explanation of the program is offered in a way suitable to the elder's level of understanding. This explanation and the elder's response indicating consent must be documented. When an elder is believed to lack the capacity to consent, a family member may agree to the provision of services which do not interfere with the liberty and well-being of the elder and to which the elder does not object. The circumstances of consent must be documented.

APPROACH

Protective services should be provided, as much as possible, with the least possible intrusion into the life of the elder. As such, the PS provision of services must be developed in consultation with the elder and should reflect the elder's needs and wants. Services should be developed in consultation with the PS supervisor within 5 business days following the completion of the investigation. In addition, protective services should be reassessed at least once during the first month of service. Following the first month, the need for services should be reassessed at least every three months thereafter. Changes to protective services, including

⁹ CMR 5.19 (1-3)

increases, decreases, termination or suspension made because of the reassessments must be reflected in the service plan.

Based on the extant materials, no information is available on timeliness for case closure.

QUALITY ASSURANCE

The Department ensures that Protective Service Workers who perform investigation and ongoing service activities meet the following qualifications:

A Masters or higher degree from an accredited school in social work, psychology, counseling, human development, nursing or gerontology plus at least one year of experience in counseling, casework, case management, preferably in a protective services or crisis intervention capacity; or A Bachelor's degree from an accredited school in social work, psychology, counseling, human development, or gerontology plus at least two years of experience in counseling, casework or case management providing protective or crisis intervention services.

The Department ensures that Protective Service Supervisors meet the following qualifications:

A Masters or higher degree from an accredited school in social work, psychology, counseling, human development, nursing or gerontology plus at least two years of experience in counseling, casework, case management, preferably in a protective services or crisis intervention capacity; or A Bachelor's degree from an accredited school in social work, psychology, counseling, human development, or gerontology plus at least three years of experience in counseling, casework or case management providing protective or crisis intervention services

The role of the PS program supervisor is to monitor the provision and documentation of protective services through supervisory review of case records.

The PS worker must provide case record documentation including intake information regarding reports and collateral contacts, investigation materials describing causes, incidences, nature, and extent of abuse as well as information describing the social, physical, and mental status of the elder. Case records must also include statements and actions the elder communicated regarding her/his refusal to participate in the investigation or her/his refusal of protective services. The Department produces an annual report on its activities for submission to the Governor, the general court, and the public no later than 120 days following the end of each fiscal year. The contents of the report includes, but is not limited to: statistical information about the number and types of reports received during the prior fiscal year; aggregate information indicating the results of the investigations conducted by protective service

agencies; and information on the types and costs of services provided under the authority of 651 CMR 5.00 during the prior fiscal year

Michigan

Name of Agency	Michigan Department of Health and Human Services
Name of Program	Adult Protective Services
Data Sources	Michigan APS Program Manual Michigan Legislature NAMRS Agency Component Data FFY2020 Report

CONTEXT

ADMINISTRATION

The Michigan Adult Protective Services Program operates under Chapter 400 Section 11 (a-f) of Act 28 of 1939. It is a state-run program within the State of Michigan Department of Health and Human Services (MDHHS).

SCOPE

APS investigates allegations involving any adult who is reported to be at risk of harm from abuse, neglect or exploitation, and where there is a rational belief that the person is vulnerable and in need of protective services. Vulnerable is defined as “a condition in which an adult is unable to protect himself or herself from abuse, neglect, or exploitation because of a mental or physical impairment or advanced age.” The central intake manager reviews each referral to determine whether the subject of the reported referral is a vulnerable adult at risk of harm from abuse, neglect, or exploitation.

When an allegation involves an adult living in a licensed facility, policies for investigating the allegations depend on the type of facility:

MDHHS/Behavioral Health and Developmental Disability (MDHHS/BHDD)

MDHHS/BHDD Office of Recipient Rights (ORR) will investigate referrals of abuse, neglect, or exploitation of adult residents of in these facilities; local office APS workers do not conduct these investigations. Exceptions to this are when the incident occurred prior to the resident’s admission to the facility, while the resident was on a leave of absence from the facility, or while the resident was off the facility premises in the custody of another person or organization, in which case MDHHS APS staff are responsible for investigating.

Licensing and Regulatory Affairs (LARA)

APS does not investigate abuse, neglect or exploitation in facilities licensed by LARA, including county medical care facilities, freestanding surgical outpatient facilities, hospitals, and nursing homes. LARA has sole responsibility for investigating incidents of alleged abuse, neglect, or exploitation of patients and residents in these facilities if these incidents allege violations of LARA enforced rules and statutes. Exceptions for this are that MDHHS local office staff are responsible for investigation of referrals involving adult patients and residents of LARA licensed facilities if the alleged violation took place outside the facility in the community, or if it occurred inside the facility but the alleged perpetrator is not a facility employee, staff person or resident.

LARA - Bureau of Community and Health Systems (BCHS)

APS is responsible for investigating referrals of abuse, neglect or exploitation involving residents of adult foster care (AFC) homes and homes for the aged. BCHS has responsibility to investigate any allegations of rule violations within BCHS licensed facilities. If a referral involves allegations of abuse, neglect, or exploitation of adult residents within BCHS licensed AFC homes which receive funding from community mental health services programs, local office APS workers are responsible for investigating it. There may be three separate investigations occurring at the same time in an AFC or Home for the Aged. APS will investigate for abuse, neglect or exploitation. BCHS will investigate any rule violations by the facility. Recipient Rights will investigate to determine if any of the resident's rights were violated. The protocol is to try to conduct the interviews at the same time if possible.

LARA - Substance Use Disorder Treatment Agency Michigan Department of Licensing & Regulatory Affairs, Bureau of Community and Health Systems, State Licensing Section

When allegations involve clients who have been abused, neglected, exploited or endangered and are vulnerable in substance use disorder treatment agencies that sign qualified service organization agreement (QSA) with MDHHS, the agencies will make APS referrals to central intake when appropriate.

Attorney General Medicaid Fraud Control Unit

When allegations involve abuse or neglect of patients/residents of facilities which accept Medicaid payments or provide services funded under Title XIX of the Social Security Act, the Medicaid Fraud Control Unit (MFCU) in the Department of Attorney General is required to investigate.

CONFIDENTIALITY

The client's confidentiality and due process must be respected.

The identity of the reporter must be confidential unless he or she gives MDHHS written permission or is ordered by a court to release the reporter's identity.

GUIDING PRINCIPLES

Michigan’s guiding principles are contained within their policy manual, as follows:

- Adults have a right to make their own decisions. This includes:
 - Decisions as to whether they want service, what services or how much and from whom,
 - Decisions as to where they live, and
 - Decisions to determine a plan of service.
- Services must recognize the role of the family. Family involvement should be supported by:
 - Seeking out the family,
 - Involving them in service planning, and
 - Directing services and resources toward the family in their role as caregiver.

If the interest of the family and the adult compete, the adult's interest is primary.

- Services should be the least intrusive, least disruptive and least restrictive.
- Services should be part of a coordinated network of community-based services, using all appropriate existing community services and identifying the need for developing additional services.
- In providing services to adults, the full range of social work skills focused on person centered planning should be used to inform clients of services and alternatives available and the impact of decisions to assure informed choices. Workers should consider strength based solution focused techniques.

INTAKE

REPORTERS

Mandatory reporters include law enforcement officers; employees of a county medical examiner; physicians; and those employed, licensed, registered, certified to provide or an employee of an agency licensed to provide: health care, education services, social welfare services, mental health services, and other human services. Additionally, MDHHS must report any criminal activity to a police agency. When there is alleged abuse, neglect or exploitation of vulnerable adults residing in facilities licensed by LARA, the following persons are required to report to LARA: Nursing home employee, administrator, nursing director, physician or other licensed health care personnel of a health care facility to which a patient is transferred.

PRIORITIES

The worker must begin an investigation of all assigned referrals within 24 hours after it is received. If the central intake manager determines there is risk of imminent danger to the client, the worker must begin the investigation as soon as possible.

INVESTIGATION

AUTHORITY

Local law enforcement officers shall cooperate with the local MDHHS office in an investigation of suspected abuse, neglect, or exploitation upon request. Local offices shall collaborate with the county prosecutor's office in criminal investigations and make the results of any APS investigation and all other client related information available to aid in such investigations.

Whenever non-legal intervention does not meet the goal of protection, the need for voluntary or involuntary legal intervention may be used to protect the client. The APS worker must assess the need for legal intervention, and it should be used only when endangerment cannot be eliminated with the use of the social intervention process. The client must either request or accept legal assistance because physical or cognitive limitations result in the inability to manage his or her own affairs or the client may not consent to legal action but is endangered because he/she is cognitively or physically unable to exercise independent judgment. Involuntary legal intervention must only be initiated when needed to avoid serious harm to the client and when there is rational cause to believe the adult lacks understanding or capacity to make or communicate informed decisions.

Per Statute APS must conduct an investigation, if the referral has been assigned. However, a client may refuse to speak to APS or refuse services. APS cannot impose services on a client. If a client appears not to have capacity for decision making, then APS has the ability to request an evaluation be conducted. As a last result, legal intervention would be sought.

CASE INITIATION

The central intake supervisor reviews all APS referrals and determines if the referral is assigned for investigation or not.

CONDUCTING INVESTIGATION

The APS risk assessment measures the level of risk of harm to the client, and the impact of intervention by APS workers. It is designed to determine client safety and possible continuance or reoccurrence of harm. The assessment is intended to serve as a guideline for prevention and service plan development, manage protection and risk, and focus available resources to areas of highest need. The APS risk assessment consists of the following risk factors: client, environment, support network, caregiver and perpetrator.

Each risk factor is scored as follows:

- N - Not applicable: Does not apply to the client's situation.
- INS - Insufficient: APS is not able to access/evaluate.
- No Risk: Client is living in a safe and stable environment.
- Low Risk: Circumstances that caused the risk are not likely to recur or to escalate in severity.
- Moderate Risk: There is a possibility that the risk will escalate and the area of concern warrants attention.
- High Risk: Risk is severe and places the client in danger.

Completion of APS risk assessment is mandatory at case opening, case closing, and whenever there is an apparent change in harm or vulnerability. Risk assessments need supervisory review and written approval prior to case closure.

Contact must be made within 24 hours by phone or in-person with either the client or collateral contact for all cases assigned for investigation. During the investigation, the worker must conduct a face-to-face interview with the adult by means of a personal visit within 72 hours from the time the complaint was received. For ongoing cases one face-to-face contact with the client must be made every 30 calendar days.

Cases have no standard length but remain open until substantiation status is determined and/or services are provided. Cases open longer than six months require supervisor approval.

A Michigan Department of Human Services Adult Protective Services worker may, in the course of carrying out an APS investigation, obtain access to Community Mental Health recipient information regardless of the source of a report of information concerning suspected abuse, neglect, exploitation or endangerment that led to the investigation.

DISPOSITIONS

State policy does not include a standard of evidence for substantiating an allegation of maltreatment in an APS investigation. The worker will determine in the investigation if the allegation of abuse, neglect, or exploitation is substantiated or unsubstantiated and must inform the client or their legal representative.

POST-INVESTIGATIVE SERVICES**AUTHORITY**

The worker must make protective services available to the client in all substantiated referrals. The worker must offer services to clients in unsubstantiated cases when a need is determined

and provision of the offered services (provided directly or through approved purchase of service contracts) will reduce the risk of the need for future APS intervention.

The worker must complete an initial plan of care within 30 calendar days of the referral date for both substantiated cases and unsubstantiated cases for which services are being referred or provided or that remain open longer than 30 days. If day 30 falls on a weekend or holiday, the plan of care must be completed by the last working day prior to day 30.

When an adult is in a life-threatening situation and refuses services, it must be determined if the circumstances indicate a need to petition the probate court for appropriate legal intervention. This decision must be documented in the closing summary. APS cases must be closed or referred to another program when the need for protective services no longer exists and there is no ongoing probate court activity.

Services may be terminated if the referral is substantiated but the adult is fully aware of the risks and consequences of the situation and refuses provision of services.

The case should remain open long enough to determine that the service plan has provided effective protection to the client. When the client's situation has stabilized, the case may be closed to APS and transferred to another service program, if appropriate. Most cases should be closed within 90 days.

Based on the extant materials, no information is available on if APS provides services to perpetrators or family members.

APPROACH

This program will assure that adults in need of protection are living in a safe and stable situation, including legal intervention where required, in the least intrusive or restrictive manner. In all substantiated referrals, the worker must make available the most appropriate and least restrictive protective services to the client.

APS services are provided to assist adults in need of protection with routine activities of daily living. These are activities which they are unable to perform and are necessary to prevent injury or harm. There are no eligibility requirements related to income or assets for APS clients. Payments may be authorized for, but are not limited to, the following:

- Heavy house cleaning, including rentals of necessary equipment such as dumpsters, exterminator's services, and carpet cleaners.
- Household equipment such as refrigerators or air conditioners.
- Activities of daily living such as eating, toileting, bathing, grooming, dressing, transferring & mobility.

- Instrumental activities of daily living such as medication, laundry, housework, meal preparation and shopping.
- Emergency housing.

APS payments for adults in need of protection cannot exceed \$1,000 within a twelve-month fiscal year. There are no exceptions to the amount available for needed services. However, exceptions may be approved for services not listed above when deemed necessary to provide for the protection of the client. Services that can be covered under another program, such as SER or Medicaid, or are free must not be authorized.

QUALITY ASSURANCE

The APS supervisor must monitor new APS cases monthly for standards of promptness. Monitoring must include the 24-hour collateral, 72-hour face-to-face, and 30-day plan of care requirements. The APS supervisor must monitor all APS cases each month for 30 days. All APS cases must have a full case reading completed by the APS supervisor before closure. If a supervisor determines that further actions are required by the APS worker, the supervisor must document in the Michigan Adult Integrated Management System (MiAIMS) that the investigation is incomplete and what actions are required by the worker by when.

Documentation of all case activity must be completed in MiAIMS within 5 days of occurrence. These activities include all contacts; alleged perpetrator details; referrals to other agencies; services offered; alleged harm types; legal interventions; and risk assessment. APS case records must be retained for 3 years, however, if there are any payments attached to the case, the case records must be retained for 7 years after date of closure.

Based on extant material, there is no additional information about quality assurance activities

Minnesota

Name of Agency	Minnesota Department of Human Services
Name of Program	Adult Protective Services
Data Sources	Minnesota Department of Human Services Adult Protection and Procedure Manual dated March, 2021 NAMRS Agency Component Data FFY2020 Report

CONTEXT

ADMINISTRATION

The Minnesota Adult Protective Service (APS) program operates under Minnesota Stat. § 626.557. Adult protective services in Minnesota are a state supervised and county administered human service program. The Vulnerable Adults Act (VAA, Minnesota Statutes, sections 626.557; 626.5572; 626.5571) covers several key points: state policy on the safety of vulnerable adults, who is considered a vulnerable adult, how maltreatment is defined, who is required to report known or suspected maltreatment, where to report, which agencies must investigate, investigative activities, investigator training, required notifications, data practices, APS duties for protection of vulnerable adults, time frames, multi-disciplinary coordination, and the appeal process when parties involved in the case are not satisfied with its outcome.

The Minnesota Department of Human Services (DHS) operates the state's centralized common entry point for reporting suspected maltreatment, the Minnesota Adult Abuse Reporting Center (MAARC). Reports of maltreatment of a vulnerable adult are made by mandated reporters and the public to the Minnesota Adult Abuse Reporting Center (MAARC), the state's common entry point (CEP under MN Statute 626.5572 Subd. 5), based on suspicion. Mandated reporters must report immediately. Duplicate reports for the same person and the same incident may be made. Every report received by MAARC is referred to the lead investigative agency (LIA) identified in the VAA to make decisions in response to the reported allegations. The LIA responsible depends on certain characteristics of the vulnerable adult and the alleged perpetrator. MAARC also makes immediate referrals to law enforcement when a crime is alleged, to the medical examiner and ombudsman when death is alleged as result of maltreatment and to APS when an immediate need for protection of the vulnerable adult is assessed at the time of the report. Law enforcement is the primary agency for investigation when the allegation may be criminal.

The Minnesota Department of Health (MDH), Health Regulation Division, is the LIA for all reports alleging that a vulnerable adult was maltreated by a MDH licensed service provider,

someone associated with or employed by the service provider, or another service recipient under the provider's supervision. MDH licensed providers include hospitals, home care providers, nursing homes, boarding care homes, hospice providers, residential facilities that are federally certified as intermediate care facilities that serve people with developmental disabilities and assisted living facilities.

The Minnesota Department of Human Service (DHS), Office of the Inspector General, Licensing Division, is the LIA for all reports alleging a vulnerable adult who receives services licensed, or required to be licensed, by the Department of Human Services, was maltreated (abused, neglected or financially exploited) and the person alleged responsible is, or was, the service provider, or associated with the provider, such as an employee, or another resident or service recipient under the provider's supervision. These service providers include adult day care, adult foster care, community residential settings, programs for people with disabilities, outpatient chemical dependency treatment programs, the Minnesota Sex Offender program, supportive employment services and other facilities or services.

The local county adult protective services (APS) program is the LIA for all reports alleging a vulnerable adult, in that jurisdiction, has been maltreated (abused, neglected or financially exploited) by a person or entity who was not a licensed provider. Minnesota American Indian Tribal Governments may also administer APS programs. APS investigates allegations that a personal care assistant (PCA), or PCA associated with an unlicensed personal care provider organization under sections 626.5572, Subd. 13, was responsible for maltreatment. APS is also LIA for reports alleging a family member, or acquaintance, of the vulnerable adult, an unknown entity, or a scam, was alleged responsible for maltreatment. APS is also LIA when a vulnerable adult is alleged to neglect the food, shelter, clothing, health care, or supervision necessary to maintain their own health, comfort, or safety. Regardless of LIA, APS is responsible for response to a MAARC report when an immediate need to protect the vulnerable adult's life or health is assessed at the time of report and to respond to requests from another LIA to protect the vulnerable adult when a need is assessed by the LIA during intake or investigation.

The DHS provides policy, training, case consultation, standard decision tools, a technology system and resources for APS. Each APS agency may also have internal policy requirements. APS uses a state data system to electronically receive and document response to reports. The data entered by APS in the state system is stored in a state centralized data warehouse and managed consistent with requirements under the VAA. APS uses required standardized decision-making tools provided by the department, as well as the agency's own prioritization as allowed under statute, in making screening decisions in response to reports of suspected maltreatment of a vulnerable adult. When the report has been accepted for APS, the agency engages with the vulnerable adult to assess the person's safety, strengths and service needs and develops a person-centered safety plan. Service interventions to address assessed needs and carry out the safety plan are offered the vulnerable adult. Parallel to assessment and

services interventions, APS collects facts to reach a standard of preponderance to determine if the allegation meets the standard of maltreatment, and if so, who is responsible for the maltreatment. The APS case is closed when the determination is made and the vulnerable adult is safe, or conditionally safe following diligent trauma informed, person-centered engagement with the vulnerable adult.

SCOPE

Minnesota statutes define an adult as a vulnerable adult using categorical and functional criteria. Minnesota does not use aged-based criteria to establish vulnerability status. People with disabilities may be vulnerable adults under Minnesota's statutes. To receive APS, the vulnerable adult must be the subject of a MAARC report of suspected abuse, neglect or financial exploitation. The definition of neglect includes self-neglect.

APS investigates three areas of maltreatment - abuse (including physical, emotional, and sexual abuse), neglect (including caregiver neglect and self-neglect) and financial exploitation. Definitions for maltreatment incorporate licensing issues and are also used in the criminal code leading to complex and detailed definitions to evaluate for determination of maltreatment.

CONFIDENTIALITY

Data involving maltreatment of a vulnerable adult reported to MAARC generally is private, confidential, or protected nonpublic data depending on the status of the report, investigation and subject. Data maintained at the common entry point, MAARC, is confidential. Reporters are allowed to disclose non-public data and medical records data to the extent necessary to complete the report. The identity of the reporter is confidential and may only be shared with the consent of the reporter, when ordered by the court, or upon a written finding by a court that the report was false and made in bad faith.

APS data is welfare data under [Chapter 13](#). While the investigation of the allegation and the APS social service assessment is active, the names of the victim and person alleged responsible and anyone else interviewed are confidential. When the investigation is concluded, the names become private; and private information may be released with consent of the individuals or if the personal identifiers can be removed. APS agencies are required to cooperate and share data with law enforcement in the investigation and in the provision of emergency adult protective services. Law enforcement is also required to cooperate and exchange data with APS. Licensed facilities and service providers are required to cooperate and share data with APS. Financial institutions are required to provide records in response to request from APS or another LIA.

Data obtained in the investigation of the abuse or neglect of a vulnerable adult may be shared as necessary between lead agencies, prosecuting authorities, and law enforcement agencies. A

lead investigative agency may notify other affected parties if the agency has reason to believe maltreatment has occurred and dissemination of the information will safeguard the well-being of the affected parties or dispel wide-spread rumor.

GUIDING PRINCIPLES

Minnesota [Adult Protection Policy and Procedure](#) incorporates the National Adult Protective Services Association Code of Ethics and is guided by the Administration for Community Living (ACL) Voluntary Consensus Guidelines for State Adult Protective Services Systems.

INTAKE

REPORTERS

The Minnesota Adult Abuse Report Center (MAARC) is the state centralized reporting system which operates 24/7 to accept and refer reports from mandated reporters and the public. MAARC includes a phone reporting system for all reporters and a web reporting option for mandated reporters.

State policy encourages reporting maltreatment of a vulnerable adult by any person and requires reporting by mandated reporters. The reporting standard is suspicion. Mandated reporters are professionals engaged in social services, law enforcement, education, health care, the care of vulnerable adults, an employee of a vocational rehabilitation facility, employee or person providing services in a residential care facility, or a person that performs the duties of the medical examiner or coroner. The mandated reporter is required to make a report to the MAARC within 24 hours of learning about or witnessing a maltreatment.

PRIORITIES

The MAARC is statutorily responsible for determining the LIA for each report of suspected maltreatment received and referring completed reports to the appropriate LIA within two business days of the report. The reporting process includes a standardized assessment of the vulnerable adult's need for immediate APS response and provides immediate electronic notification to APS agencies when emergency need for APS is assessed. Required immediate notification is made by MAARC to law enforcement when the report contains suspected criminal activity including physical, sexual or emotional abuse, financial exploitation, or neglect by a caregiver that results in injury. Immediate notification to the medical examiner and to the Ombudsman for Mental Health and Developmental Disabilities is made by MAARC when death is alleged to be as a result of maltreatment.

Intake activity and screening decisions on response to MAARC reports is made by LIAs. Each LIA is allowed to by statute to establish prioritization guidelines for decisions on which reports to

accept, or screen in, for investigation and when the LIA is APS, for investigation and service interventions. Statute requires decisions on intake to be completed within five business days of report receipt. The LIA is required to notify the reporter on the initial disposition of the report within five business days of receipt of the report, provided that the notification will not endanger the vulnerable adult or hamper the investigation.

When APS is the LIA, the agency is required to use a DHS provided standardized decision tool to make decisions regarding whether the victim meets the definition of a vulnerable adult according to statute and whether the allegation rises to the level of maltreatment according to the statute. The tool supports the agency in determining if the report involves a statutorily defined vulnerable adult, and then if the report meets the statutory definition of maltreatment. The decision tool recommends a screening decision as well as a response priority for timeliness of action to initiate investigation of the allegation and assessment of the vulnerable adult's safety and needs. APS is able to override the intake tool's policy based screening recommendation, using local agency protocols for prioritization. APS initiates intake activity immediately upon awareness a maltreatment report has been received from MAARC.

The intake tool guides decisions for accepted reports to identify if the vulnerable adult is in need of immediate care or protection. The response priorities for the intake assessment are:

- Level 1—Response Priority (start the investigation and assessment response within 24 hours) if the vulnerable adult is in immediate danger of serious harm.
- Level 2—Response Priority (start the investigation within 72 hours) if the vulnerable adult is in a safe environment and expected to remain there.

INVESTIGATION

AUTHORITY

APS agencies are required to offer emergency and continuing protective services in order to prevent further abuse, neglect, or exploitation of the vulnerable adult. APS duty is to safeguard the welfare of the vulnerable adult and prevent reoccurrence of maltreatment consistent with ethical principles incorporated in the Minnesota Adult Protection Policy and Procedure Manual from the National Adult Protective Services (NAPSA) code of ethics as referenced in the ACL Recommended Guidelines for APS.

When necessary to protect a vulnerable adult from harm of further maltreatment, APS may seek authority to remove the vulnerable adult from the situation, seek a restraining order, remove the person responsible for maltreatment, or petition the court for guardianship when there is no less restrictive alternative to protect the person from substantiated maltreatment. APS has no independent authority to for involuntary intervention outside of petition the court

with the exception of data sharing and obtaining records from service providers and financial institutions.

Investigation activities are not dependent on consent by the vulnerable adult, but rely on the skill, engagement and person-centered approach of APS. There is no requirement that the vulnerable adult cooperate with the investigation, assessment or services.

CASE INITIATION

APS has two roles when a case is initiated; investigation and assessment to offer adult protective services for the purpose of safeguarding the vulnerable adult and preventing further maltreatment. When investigating a report, APS as the LIA, shall interview the alleged victim, the reporter, the person alleged responsible for maltreatment and others who may have relevant information; examine the environment surrounding the alleged incident; review pertinent documentation of the alleged incident; and consult with professionals. There is not a requirement to notify parties of the investigation separate from the interview requirements however, policy recommends notification to the person alleged responsible for maltreatment of their alleged responsibility for maltreatment consistent with data practices and in coordination with law enforcement.

CONDUCTING INVESTIGATION

APS is required under policy to engage with vulnerable adults in a person-centered, trauma informed manner to assess the person's strengths and needs, develop a safety plan and offer service interventions to prevent maltreatment. Assessment and service interventions are parallel with investigation activities. APS is required to conduct standardized safety and strengths and needs assessments for the vulnerable adult and their primary support person, complete safety planning to address assessed priority needs and work with the vulnerable adult, as well as formal and informal supports, to implement service interventions.

APS has 60 days to complete the investigation. The investigation may extend past 60 days with proper notice to required parties including the vulnerable adult. There is not a time frame required for completion of adult protective service intervention. Services interventions are completed when the vulnerable adult is safe, or conditionally safe following diligent APS engagement.

The investigation, assessment and service intervention should include the following steps:

- *Review the information on the Adult Maltreatment Report and note any questions or items that need clarification.*
- *Research prior reports and/or investigations.*
- *Contact the reporter.*

- *Determine what, if any, documents are needed for the investigation and request them as necessary.*
- *Plan the face-to-face visit(s).*
- *The Structured Decision-Making Tool Safety and Strengths and Needs Assessment are completed and used for service planning after the first visit to the vulnerable adult.*
- *Complete safety planning.*
- *Conduct necessary interviews.*
- *Process the interviews.*
- *Community Coordination.*
- *Service Interventions.*
- *Making a determination of the allegation.*
- *Required notifications.*
- *Closing assessment of vulnerable adult's safety.*
- *Case Closure.*

APS must try to obtain all records, including police reports, medical records and financial records relevant to investigation and assessment. APS should have access to data that are not public to the extent necessary to conduct its investigation.

Investigations that involve home care agencies, nursing homes, hospitals, or licensed residential settings are handled by either MDH or DHS as LIA. APS may be requested for the vulnerable adult by the LIA, or APS may have received notification of an emergency need by the MAARC. If the case involves an allegation of maltreatment of a facility resident or vulnerable adult receiving licensed services, when the licensed provider or staff are not alleged responsible APS has the right to enter facilities and inspect and copy records.

Financial institutions are permitted to share financial records with lead investigative agencies, law enforcement or prosecuting authority, although APS may need to provide the statute citation in a letter to the bank. Sometimes a search warrant or subpoena from law enforcement is required to obtain records.

APS is required to complete standardized decision tool processes with the vulnerable adult/primary support person. Tools include an initial safety assessment and strengths and needs assessments (SNA) and a final safety assessment to guide case closure decisions. After the initial assessment visit with the vulnerable adult, the safety assessment is completed to

assess factors influencing vulnerability, factors presenting danger to the vulnerable adult, and the caregiver's ability to keep the vulnerable adult safe. After the first contact, the SNA is conducted as a comprehensive global assessment of the client and caregiver's needs to ensure appropriate service planning. Prior to case closure, the SNA is completed again to give workers and administrators a picture of potential service gaps and to show outcomes due to APS involvement.

If APS is unable to complete the investigation final disposition within 60 days, the vulnerable adult, or his or her guardian or health care agent with appropriate authority, are provided the reason for the delay (as long as the notification will not endanger the vulnerable adult or hamper the investigation). The final disposition is not invalidated by the LIA's inability to complete the investigation within 60 calendar days or any subsequent projected completion date.

DISPOSITIONS

A preponderance of the evidence standard is used for substantiating reported allegations. An allegation is substantiated when a preponderance of the evidence shows that an act that meets the definition of maltreatment occurred.

The dispositions reached by APS for each report of maltreatment are: substantiated, inconclusive, false, or that no determination will be made. No determination is made when assessment and investigation activities discover the person who was the subject of the report was not a vulnerable adult, or the vulnerable adult is not able to be located. When maltreatment is substantiated, the final disposition also identifies, if known, the person or entity responsible for the substantiated maltreatment.

Notification letters of the investigation disposition must be sent to vulnerable adult clients, or the guardian with proper authority, of their right to request administrative reconsideration of the final disposition. The vulnerable adult receives the Notice of Right of Reconsideration and Review of a Vulnerable Adult or Interested Person letter. Persons or entities determined responsible for maltreatment receive the Notice of Right of Reconsideration and Appeal of Maltreatment letter.

Dispositions for substantiated maltreatment are sent electronically to the DHS Licensing, Background Studies. Background studies determines if the person substantiated as responsible for maltreatment meets the statutory definition of serious or reoccurring; requiring the person to be disqualified from providing services to vulnerable adults or children. APS also notifies appropriate licensing boards of substantiated reports including the names of the person responsible. Notification to licensing boards about inconclusive or false reports may be made if APS has reason to believe that there may have been a violation of the applicable professional practice laws and in consultation. If the investigation memorandum is provided to

a licensing board, the subject of the investigation memorandum shall be notified and receive a summary of the investigative findings.

An individual license holder may be disqualified based on a determination that the individual was culpable for serious or recurring maltreatment of a minor or vulnerable adult. DHS has the authority to issue a variety of licensing sanctions based on the nature, severity, or chronicity of the violations.

POST-INVESTIGATIVE SERVICES

AUTHORITY

APS is required to offer services parallel with investigations of suspected maltreatment. Service planning is guided by person centered structured decision tool assessments. APS is offered concurrent with the investigation of the allegation, so services are not dependent on confirmed determination of maltreatment. APS follows the NAPSA code of ethics to balance duty for safety with the vulnerable adult's right to self-determination.

APS does not have authority to force services on vulnerable adults. A vulnerable adult may refuse services following diligent and person-centered engagement by APS. When APS service implementation is not possible based on the person's refusal, a decision must be made as whether intervention against the vulnerable adult's wishes is required to protect the person from serious harm. Involuntary actions require a capacity assessment, physician or court hold orders, or guardianship appointments by the court as well as a review of the ethical conflict(s). An investigative determination of substantiated maltreatment is required for involuntary intervention. Consultation with a supervisor, multi-disciplinary team and possibly others including experts in capacity assessment, law enforcement, the county attorney, or other stakeholders, in addition to ethical considerations, are necessary prior to initiating involuntary intervention.

If the vulnerable adult is in need of ongoing case management services, a vulnerable adult/developmental disability Targeted Case Management services case may be opened, dependent on county protocol, if the person meets the criteria for these services (must be a vulnerable adult age 18 or older, receiving medical assistance, in need of service coordination to attain or maintain living in an integrated community setting, and not receiving home and community-based waiver services). These services help the vulnerable adult gain access to needed protective services, social, health care, mental health, habilitative, educational, vocational, recreational, advocacy, legal, chemical, health and other related services. If the vulnerable adult is in need of ongoing case management services from adult protection but does not meet the criteria for Targeted Case Management, ongoing APS services are provided when available through the county, or another agency.

The APS case is closed when the investigation is determined and the vulnerable adult is assessed as safe, or conditionally safe based on specific criteria, following service interventions.

APPROACH

In accordance with NAPSA guidelines, APS should provide the least restrictive services first whenever possible—community-based services rather than institutionally-based services. Respect for individual differences such as cultural, historical and personal values is also emphasized.

There are no required timeframes for case closure outside of the investigation.

QUALITY ASSURANCE

APS supervisors approve final screening decisions resulting from standard decision tools used to accept or decline a report for investigation or protective services. APS supervisors must consult, approve and sign case closure based on investigation determinations and the final safety assessment.

APS data are captured in the Social Service Information System (SSIS). All counties are required to use the SSIS to respond to vulnerable adult maltreatment reports received by MAARC. This system, operated by DHS, is used to track critical steps in the reporting, evaluation, referral, response, disposition, investigation, notification, determination, and appeal processes as required under statute.

County and tribal agencies are responsible for the administration for their APS programs. APS agencies have individual local internal quality assurance and service reviews. DHS offers training, case consultation and data management reports in SSIS to support local agencies in quality assurance. The state has a Human Services Performance Management System (HSPM), operated through a council, for essential human services. Adult protective services are an essential human service under [Minnesota statutes 401A.01](#). The performance management system establishes performance measures and sets thresholds for outcomes for vulnerable adults. The HSPM provides performance feedback to APS managers as well as technical assistance to improve outcomes for vulnerable adults.

Mississippi

Name of Agency	Department of Human Services
Name of Program	Adult Protective Services
Data Sources	Adult Protective Services: Frequently Asked Questions, Mississippi Department of Health Services Adult Protective Services Procedure for Service Activity NAMRS Agency Component Data FFY2020 Report

CONTEXT

ADMINISTRATION

The Mississippi Adult Protective Services operates under the Mississippi Vulnerable Persons Act, Section 42-47-9 of the Mississippi Code. It is a state-run program within the Department of Human Services Division of Aging and Adult Services. Adult Protective Services investigates allegations of ANE of vulnerable adults in private home settings. Follow-up services are also provided to vulnerable adults after the investigation.

SCOPE

A vulnerable adult is defined as:

a person 18 years of age or older or any minor whose ability to perform the normal activities of daily living or to provide for his or her own care or protection is impaired due to a mental, emotional, physical, developmental disability or dysfunction, or brain damage, or infirmities of aging. The term "vulnerable adult" also includes residents or patients, regardless of age, in a care facility.

For APS to investigate the alleged exploitation of a vulnerable adult in a nursing home, the alleged perpetrator must be a family member.

CONFIDENTIALITY

The Mississippi Vulnerable Persons Act treats investigation information as confidential. Investigation information is only available to:

- A physician who suspects a person to be abused, neglected, or exploited
- A duly authorized agency having the responsibility for the care or supervision of an alleged victim
- Alleged victim

- A grand jury or a court of competent jurisdiction, upon finding that the information in the record is necessary for the documentation of charges before the grand jury
- A district attorney or other law enforcement official

APS also keeps the reporter's name confidential. Anonymous reports are accepted. However, any person or entity required to hold a license in a profession and vocation, shall be required to give his, hers or its name, address and telephone number.

GUIDING PRINCIPLES

APS abides by the following basic principles in planning adult protective services:

- *Where possible, the adult participates in making the decision to the services provided.*
- *The adult is helped to "remain in the community" for as long as possible after hospitalization or protective care.*
- *Legal action is requested if the adult is in need of protective services, lacks the capacity to consent; has no one, responsible relative or friend, to act on his/her behalf. The inability of a person to direct his /her affairs is not necessarily permanent.*
- *The action taken is the least restrictive available alternative and is consistent with the individual's needs.*
- *Adult services are to be directed toward preventing the deterioration and crisis that result in abuse, neglect, and exploitation. Social workers need to be especially sensitive to stressful conditions that may be improved by outside intervention.*

Based on the extant materials reviewed, no information is available on policies to ensure that the APS Program is held to high standards of integrity, however this is an area that is under development.

INTAKE

REPORTERS

The Mississippi Vulnerable Adults Act mandates that any person, who knows or suspects that a vulnerable adult has been or is being abused, neglected, or exploited, should immediately file a report. Mandated reporters are: attorneys, physicians and other medical professionals engaged in the admission, treatment or care of a vulnerable adult; mental health professionals, social workers or other professional adult care, residential or institutional staff; criminal justice employees or law enforcement officers; human rights advocacy committee or long-term care

ombudsman council members; accountants and other financial advisors, consultants or service providers.

There are two priority levels that may be assigned to reports of abuse. Priority One reports require an initiation response time within 48 hours, and Priority Two reports require an initiation response time within 72 hours. However, some reported of abuse require a response time of 24 hours or sooner.

INVESTIGATION

AUTHORITY

The initiation of an APS investigation does not need the consent of the vulnerable adult. However, the vulnerable adult can refuse an interview, if mentally capable.

If APS determines the adult is in imminent danger of death or irreparable harm, emergency and/ or protective services such a medical care, shelter, and other essentials may be provided immediately. Within 48 hours, the Department shall petition the Court for an injunctive relief authorizing the provision of emergency services. If the vulnerable adult does not consent to protective services, the services shall not be provided unless it is determined that the adult lacks capacity to consent.

CASE INITIATION

Investigations are considered "initiated" when APS makes personal contact with the alleged victim and other involved adults. When possible, the first personal contact should be with the alleged victim and must be fully documented. Upon receipt of a report, an initial assessment is conducted to determine safety and risk. The assessment should also provide information on the vulnerable adult's circumstances and capabilities. The APS worker gathers information on:

- *Whether the adult was abused, neglected or exploited?*
- *Was the abuse self-perpetrated or by another individual?*
- *What services are needed?*
- *Are needed services available from the Department of other public/private agencies?*
- *What interventions are needed to immediately ensure safety of the adult?*
- *Whether the adult is willing to consent to the provision of services?*
- *Whether the adult is mentally incapable of consenting to the provision of services and has no responsible surrogate decision-maker.*
- *If APS cases should be opened or closed?*

Once the report is screened in for investigation, the APS Hotline screener will route the report to the APS supervisor that is assigned to that area who will then assign the report to a worker.

CONDUCTING INVESTIGATION

APS investigations involve:

- Interview with the vulnerable adult: this interview should be conducted alone with the adult.
- Observations and visual examination: a professional medical exam can be arranged if there is any indication of injury. The adult must consent to this examination.
- Interview with the caretaker and/or alleged perpetrator: initial contact with the caretaker must be an unannounced home visit. If the caretaker has been charged or arrested or is under investigation for a crime, the APS social worker only needs to interview for information to determine the safety or risk of harm to the vulnerable adult. If there is a request from the district attorney or other official to not interview the caretaker, the APS social worker needs to advise the Supervisor, inform the Chancery Court Judge and seek advice of further actions. Reasons for not interviewing the caretaker must be documented.
- Observation of Physical Premises and Behaviors: observe physical settings and degree to which the home is in safe and healthy condition; interactions between vulnerable adult and caretaker and other household members. If the vulnerable adult or caretaker refuses to cooperate, a court intervention may be considered.
- Interview with Alleged Perpetrator if other than the Caretaker: if there is a request from the district attorney or other official to not interview the caretaker, the APS social worker needs to advise the Supervisor, inform the Chancery Court Judge and seek advice of further actions. Reasons for not interviewing the caretaker must be documented.
- Interview with other Household Members: these interviews should be held privately.
- Collateral Contacts: at least one collateral contact (human services agencies, doctors, home health professionals, neighbors, family members, and others who may have knowledge of the adult's health and well-being) must be made and can be made without the consent of the vulnerable adult or caretaker.
- Medical/mental health examination: if vulnerable adult is mentally unable to consent or refuses consent to examination, the APS social worker should alert the Supervisor to consider steps for legal action.

A common instrument is used by all APS staff to assess risk, mental capacity, functionality. A common case investigation checklist is also used.

Below are the risk factors that the APS social worker should be evaluating:

- *Victim's Physical Abilities—Take into consideration a victim's level of development or disabilities. A disabled adult could fall under high risk if completely unable to care for or protect self without adult assistance.*
- *Victim's Mental Abilities—Consider the victim's ability to reason and make decisions, recognize danger, as well as their confusion or alertness to the conditions around them. An inability to properly manage medications without adult assistance would indicate some limits to a victim's mental abilities and therefore result in higher risk rating on this factor.*
- *Caregiver's Cooperation—Evaluate the extent to which the caregiver is cooperative in dealing with the agency and the investigation.*
- *Caregiver's Mental and Emotional Capacity—Evaluate the extent to which the caregiver's ability to care and protect the victim is limited by alcohol or drug usage, mental handicaps or emotional difficulties.*
- *Caregiver's Physical Capacity—In neglect, a caregiver's health may be an issue that would present a high risk to a victim. In abuse situations where the alleged perpetrator is a friend or another member of the household, the caregiver may not be physically able to protect the victim, indicating high risk.*
- *Caregiver's Coping—On an overall basis, evaluate the extent to which the caregiver is able to cope with the circumstances.*
- *Intent of Alleged Perpetrator's Behavior—Assess the extent to which the alleged perpetrator's behavior indicates a deliberate attempt to harm the victim.*
- *Alleged Perpetrator's Access—In some case situations the victim or alleged perpetrator may already have been removed from the abusive situation. In these cases, evaluate the risk factor as if the victim or alleged perpetrator were still in the home. Arrested individuals can be released on bond and return home. A higher risk factor will assess the real danger to the victim in that home.*
- *Prior History of Abuse/Neglect—Allegations refer to those that the Department or out-of-state protective service agency has investigated.*

The APS social worker needs to request that the alleged victim be interviewed alone, if possible. Interviews can also be scheduled at the county office of social services away from the alleged perpetrator or in their home when the alleged victim is likely alone.

Investigation continues until a determination to confirm or not confirm abuse or neglect is made, generally within 60 days from receipt of the report.

DISPOSITIONS

Case disposition is determined after the investigation is completed and based upon:

- Evidence/substantiated criteria
- Initial assessment
- Information gathered
- Direct observation

For the standard of evidence, proof of one or more factors must be present to substantiate the disposition: medical or psychological information; admission by the perpetrator, admission by the caregiver, a statement by a credible witness, the victim's statement, physical evidence or physiological indicators, behavioral indicators, and circumstances that link the perpetrator to the abusive act. The APS social worker must base their conclusion of the case on the all the facts and risk factors, not on 'gut feelings' or 'professional intuition'."

The categories for dispositions of APS investigations are: evidence of abuse/neglect and no evidence.

When proof has been substantiated of abuse, except for self-neglect, APS will inform the District of Attorney in writing within 72 hours or when necessary (i.e., for the protection of the vulnerable adult) immediately via telephone or in person. This notification can be done without the consent of the vulnerable adult and regardless of whether s/he refuses APS services.

All cases with a high-risk level will remain open, regardless of disposition, when the vulnerable adult is mentally unable to protect her/himself and has no one able and willing to provide protection. Cases with a lower risk level will be assessed and remain open, if necessary.

POST-INVESTIGATIVE SERVICES

AUTHORITY

APS provides follow-up services to vulnerable adults according to the results of the investigation. However, these services cannot be forced involuntarily on a mentally capable vulnerable person. The adult must consent to receiving these services.

Based on the extant materials reviewed, no information is available on services to family or perpetrators.

APPROACH

APS abides by the following basic principles in planning adult protective services:

- *Where possible, the adult participates in making the decision to the services provided.*
- *The adult is helped to "remain in the community" for as long as possible after hospitalization or protective care.*

- *Legal action is requested if the adult is in need of protective services, lacks the capacity to consent; has no one, responsible relative or friend, to act on his /her behalf. The inability of a person to direct his /her affairs is not necessarily permanent.*
- *The action taken is the least restrictive available alternative and is consistent with the individual's needs.*
- *Adult services are to be directed toward preventing the deterioration and crisis that result in abuse, neglect, and exploitation. Social workers need to be especially sensitive to stressful conditions that may be improved by outside intervention.*

When the vulnerable adult needs protective services, the Department will prepare a plan for these appropriate services to be provided. The vulnerable adult must review the plan and consent to the services before services are provided. If the vulnerable adult does not consent to the services, the services will not be provided. If the adult lacks the capacity to consent, the social worker will seek opinions of other professionals such as psychiatrists and physicians. The refusal of services must be fully documented to include the explanation of services and the adult's decision to refuse services. The social worker will also discuss the refusal with the Supervisor for any necessary follow-up and/or re-contact at a future date.

However, if there is evident of imminent danger or harm and that the provision of emergency services will alleviate the endangerment, then the Department may provide these services and petition the Chancery Court for an order of injunctive relief authorizing the emergency services. Under state law, the Department cannot provide any emergency services who refuse services based on their right of privacy or upon religious beliefs. In cases with mentally incompetent adults, the Department may seek legal intervention to provide medical treatment. The Area Social Worker Supervisors will be designated as the responsible parties for signing adult protective petitions when court intervention is requested.

QUALITY ASSURANCE

The Hotline Unit reviews a report and makes the screening decision to approve an investigation. The Supervisor is also advised when a vulnerable adult refuses services for discussion of next steps.

Based on the extant materials reviewed, no information is available on additional quality assurance activities.

For documentation of investigations, these components must be included in a case document:

- *Report that initiated investigation*
- *Adult's correct name, age, sex, race, and physical description, social security number*
- *Caretakers' correct names and ages*

- *Correct addresses of adult and caretaker(s)/guardian(s)*
- *Location and date of alleged abuse/neglect/exploitation*
- *When and where adult was observed and interviewed*
- *Summary of interviews with family members, alleged perpetrators, and collateral contacts*
- *Criteria or factors determining decision regarding validity of report*
- *Extent to which the adult's safety is at risk*
- *Social worker's decision regarding case disposition*
- *Safety plan assessment for the adult(s), if required*
- *Records of contact*

Missouri

Name of Agency	Department of Health and Senior Services
Name of Program	Adult Protective Services and Missourians Stopping Adult Financial Exploitation
Data Sources	Adult Protective Services Manual Abuse, Neglect and Financial Exploitation of Missouri’s Elderly and Adults with Disabilities MOSAFE Resource Manual NAMRS Agency Component Data FFY2020 Report

CONTEXT

ADMINISTRATION

The Missouri Adult Protective Service program operates under Title XII, Chapter 192, Sections 192.2400 through 192.2505, of the Revised Statutes of Missouri. The APS program is state-administered by Missouri’s Department of Health and Senior Services (DHSS) and the state unit on aging. DHSS also has a MOSAFE program (Missourians Stopping Adult Financial Exploitation) that focuses on combatting financial exploitation.

SCOPE

APS investigates persons 60 years of age and older or adults with disabilities between the ages of 18 and 59 who are unable to protect their own interests or adequately perform or obtain services necessary to meet essential human needs. These individuals may live in the community or in long-term care facilities.

APS investigates reports when the eligible adult resides in a facility, including long-term care facilities, when a family member (non-staff) is the perpetrator. Reports of abuse, neglect, misappropriation, or falsification of in-home clients by in-home employees are also investigated by the APS program.

Missouri investigates 12 different types of maltreatment: physical abuse, sexual abuse, caregiver neglect - medical, caregiver neglect - non-medical, self-neglect - medical/physical, self-neglect - environmental, financial exploitation, falsification, misappropriation, emotional/psychological abuse, mental health crisis and protective services. Missouri does investigate suspicious deaths, but not as a maltreatment type in of itself.

CONFIDENTIALITY

All reports and investigative findings are confidential. By law, Missouri allows for examination and copying of reports by the following:

- DHSS or any person or agency designated by the department
- the Attorney General
- the Department of Mental Health (DMH) for persons referred to that department
- any appropriate law enforcement agency
- the reported adult or his/her guardian

When reports are released, the identity of reporters is protected and reporters (other than perpetrators) are given immunity and protection from harassment, dismissal, or retaliation when the report is filed in good faith.

GUIDING PRINCIPLES

Missouri Adult Protective Service employees are to follow ethical guidelines set forth by the National Association of Social Workers (NASW) and the National Adult Protective Services Association (NAPSA).

Principles:

- Adults have a right to be safe.
- Adults retain all civil and constitutional rights unless a court adjudicates otherwise. Such rights include, but are not limited to, living their lives as they wish, managing finances, and entering into contracts.
- Adults have the right to make decisions that do not conform with societal norms as long as the adult is competent and such decisions do not harm others.
- Adults have the right to accept or refuse services.

Employee Responsibilities:

- The first concern of any intervention is to serve the best interest of the adult.
- When assessing the need for services or when adults refuse services, carefully consider the balance of safety versus self-determination. Most adults will not fit neatly into a category of either having or not having capacity, but are somewhere on a continuum. Attempt to assist the adult with identifying informal and/or community resources. When in doubt, consult with a supervisor.

- Recognize personal values and strive not to impose such values on others.
- Attain informed consent from the adult prior to services.
- Respect the adult’s right to confidentiality.
- Strive to be culturally competent.
- Honor the adult’s right to be informed of choices and options in a manner the adult can understand.
- Involve the adult as much as possible in developing the service plan.
- Focus on maximizing independence and choice based on capacity.
- Utilize least restrictive services; community-based rather than institutionally-based services.
- Encourage the use of family or other informal support systems first as doing so is in the best interest of the adult.
- Assist adults while maintaining professional boundaries by refraining from personal relationships, business arrangements or other possible conflicts.
- Support case action and planning that is in the adult’s best interest.
- Terminate services to clients when such services are no longer required or do not meet the needs of the adult. However, reasonable steps should be taken to avoid “abandoning” clients who may still be in need of services by assisting the adult with referrals and/or information to ensure continuation of services when necessary.
- Do no harm. Providing inadequate or inappropriate interventions may be worse than no intervention.

INTAKE

REPORTERS

The APS hotline receives reports from community members, family members, eligible adults, and professionals. Reporters are allowed to report anonymously.

Certain professionals are mandated reporters who are required make a report to the DHSS if they have “reasonable cause to suspect” an elder or individuals with disability aged 18-59 has or is being subjected to abuse or neglect. The following professionals are considered mandated reporters:

- Adult Day Care Worker

- Chiropractor
- Christian Science Practitioner
- Coroner
- Dentist
- Embalmer
- Employee of the Department of Health and Senior Services
- Employee of the Department of Social Services
- Employee of the Department of Mental Health
- Employee of a local Area Agency on Aging (AAA) or an organized AAA Program
- Funeral Director
- Home Health Agency or Agency Employee
- Hospital or Clinic Personnel engaged in examination, care, or treatment of persons
- In-Home Services owner, provider, operator, or employee
- Law Enforcement
- Long-Term Care Facility Administrator or Employee
- Medical Examiner
- Medical Resident or Intern
- Mental Health Professional
- Minister
- Nurse
- Nurse Practitioner
- Optometrist
- Other Health Practitioner
- Peace Officer
- Person with responsibility for the care of a person 60 years of age or older or an eligible adult
- Personal Care Attendant
- Pharmacist
- Physical Therapist
- Physician
- Physician's Assistant
- Podiatrist
- Probation or Parole Officer
- Psychologist
- Social Worker
- Consumer Directed Services Vendor

Mandated reporters who fail to report known information or file a false report can be prosecuted as a misdemeanor offense. Employees of financial institutions are not mandated reporters. However, state law requires that any person who has reasonable cause to believe that without protection, serious physical harm may occur to an eligible adult, should report information to the department.

PRIORITIES

Reports are prioritized according to the following classifications:

- Class I reports involve either an imminent danger to the health, safety, and welfare of the eligible adult or a substantial probability that death or serious injury will occur.
- Class II reports involve situations that do not rise to the level of immediate risk, but there is a substantial risk to the health, safety, and welfare of the eligible adult.
- Class III reports involve additional information on allegations already reported in an open Class I or Class II report.

INVESTIGATION

AUTHORITY

As an Adult Protective Services agency, Missouri's Department of Health and Senior Services (DHSS) serves and is mandated to investigate reports of abuse, neglect, or exploitation. DHSS is required by law to conduct investigations and authorized to gather and exchange information from different sources and agencies.

If another person prevents department staff from gaining access to the alleged victim, the court may issue a warrant for entry. Eligible adults may refuse intervention or protective services. When an adult refuses protective services, department staff will attempt to determine his or her decision-making capacity and if this is in question, may authorize legal intervention to involve mental health professionals, physicians, law enforcement or other professionals to assist with intervention and protection.

APS staff are required by statute to contact law enforcement and prosecutors if the allegations are substantiated.

CASE INITIATION

When initiating an investigation, the DHSS worker focuses on gathering preliminary information regarding the allegations, determining if the priority assigned at intake is appropriate, conducting online checks, reviewing prior reports, determining if emergency services are needed to protect the eligible adult, and ensuring that the eligible adult's basic needs are met until face-to-face contact is made.

- Class I reports should be initiated within one hour of receipt. Initial contact with an alleged victim is made as soon as possible, but usually within 24 hours.
- Class II reports should be initiated within 48 hours of receipt. Initial contact with an alleged victim is usually made within seven calendar days.
- Class III reports should be initiated within seven days. Face-to-face contact with the alleged victim is not usually required.

CONDUCTING INVESTIGATION

Multiple assessment forms are used to assess clients based upon the situation. Missouri uses an instrument called a "risk assessment" to assess the risk level of every reported victim, which includes nine different categories: demographic information, living environment, mental abilities, neglect, medical history, support system, financial resources, financial exploitation, and abuse. A decisional capacity questionnaire and a formal capacity test called 'SLUMS' (St. Louis University Mental Status exam) are used when there are concerns regarding the eligible adult's capacity. In addition, a financial exploitation assessment, a guardian/conservator assessment, a Protective Services Score assessment, a perpetrator access assessment, and the Geriatric Depression scale are used when appropriate.

Class I and Class II investigations are completed within 60 days. If a report requires more than 60 days to investigate, an exception to the rule is allowed by request. Investigations with a criminal component that have been referred to the Special Investigations Unit are to be completed within 90 days with exceptions being considered by request.

While financial institutions are generally prohibited from disclosing confidential customer information to state agencies, some disclosures are not prohibited. A financial institution or its officers, employees, or agents are to notify a state agency if they have information that may be relevant to a possible violation of any statute or regulation, including financial exploitation of the elderly and disabled.

Financial institutions may participate in MOSAFE under state law. Since their employees are in a unique position to recognize the signs of financial exploitation, they can play a vital role in protecting vulnerable customers by reporting suspected transactions or attempted transactions to DHSS.

DISPOSITIONS

Different standards of evidence for substantiating an allegation of maltreatment are used depending on the type of perpetrator. For Employee Disqualification List (EDL) reports involving allegations of falsification and misappropriation, Missouri use preponderance of evidence as statute supports due process. For every other report, Missouri uses a credible or reasonable standard of evidence.

Class I and Class II allegations will have one of the following dispositions:

- Valid: Protective services were indicated; facts must suggest a chance that injury, harm, loss, or damage may have occurred.
- Invalid: Protective services were not indicated; facts must suggest a chance that injury, harm, loss, or damage likely did not occur.
- Reason to Believe: Based on the information collected, the evidence and facts support that the allegation occurred.
- Unsubstantiated: Based on the information collected, the allegation is not supported to be criminal in nature.

Reports referred to the Special Investigations Units that were determined to be criminal in nature will have one of the following dispositions:

- Substantiated: Allegations of misconduct or criminal complaints that are supported by evidence and fact.
- Unable to Determine: There is not enough evidence to determine if a criminal act occurred.
- Unsubstantiated: No information or evidence was discovered that would support the allegation.

Any person who is found to have abused or neglected a resident of a facility is guilty of a Class D felony. Any in-home services provider agency or in-home services employee who diverts the client's personal property or funds for his or her own use or the use of the agency or falsifies any service delivery documents is guilty of a Class A misdemeanor.

The Employee Disqualification List (EDL) is an administrative vehicle through which the Director of the Department of Health and Senior Services (DHSS) may prohibit persons from working in any elder care entity that is licensed by, certified by, or contracts with DHSS. Employees who are found to have abused, neglected, misappropriated funds or property, or falsified time sheets which verify service delivery for recipients of in-home services are placed on the EDL list for a period of time. This EDL is provided to other state departments upon request and to hospitals, ambulatory surgical centers, home health agencies, skilled nursing facilities, adult boarding facilities or other agencies that provide in-home services under contract with the department and employ nurses and nursing assistants for temporary or intermittent placement in health care facilities. No person, corporation, or association who receives the EDL should knowingly employ any person who is on the list.

The APS program is not required by policy to communicate the results of investigations with reporters, alleged victims, or alleged perpetrators. If an alleged perpetrator is being placed on the EDL, the alleged perpetrator would be notified.

POST-INVESTIGATIVE SERVICES

AUTHORITY

After the investigation and assessment, the Protective Services Specialist assists in arranging appropriate intervention services if the alleged victim chooses to receive services. The alleged victim is empowered to make his or her own choices about receiving services, including those regarding long-term care.

Missouri APS does not provide direct services to family members or perpetrators. Caregivers, family/friends, and/or perpetrators may be referred to supports through AAA, Alzheimer's Association, or other local community resources when appropriate.

APPROACH

State policy requires APS services to be in the least restrictive environment. APS services focus on a person-centered and trauma-informed approach.

The state budget does include Social Service Block Grant (SSBG) funds that can be used for eligible adults receiving protective services. SSBG funds are intended for short-term services, when all other alternatives have been exhausted.

QUALITY ASSURANCE

Missouri has a two-step approach to case review by supervisors.

First Review - The purpose of the First Review is to ensure minimum investigative expectations have been met. The First Review is due within seven (7) calendar days from the date of investigation closure.

First review includes:

- Review of the "Allegations", ensuring the "Statement of Evidence" is clear and supports the status finding. Full Supervisory Review may be determined to be needed at this point.
- Review of the Narrative for an initial overview of the situation and the allegations reported.

- Review of the “Involved Persons”, checking to see that all identifying pedigree information for the victim and any alleged perpetrator has been obtained and documented along with identifying information for other involved persons if applicable.
- Review of the “Recordings” in the investigation, ensuring:
 - Initiation of report was completed and documented;
 - Face-to-face visit with the victim was completed and documented (or a waiver was approved);
 - Contact with the alleged perpetrator was completed and documented, if applicable (or documentation of an approved waiver); and
 - Collateral contacts were made
- Review of the “Investigation Summary” to verify its completion.

Full Review – Initiated if determined to be needed during the first review process. This review is due within sixty (60) calendar days.

A Full Supervisory Review is required in the following situations:

- Any ANE report involving a perpetrator other than “self” in which allegations were found “Reason to Believe”;
- Any “Reason to Believe” report being referred to the prosecutor and/or law enforcement
- All reports completed by APCWs on probation, until granted case approval;
- Any suspicious death reports;
- Any report that the APCS deems necessary; or,
- At the discretion of the Division Director/Management.

After completion of the Full Supervisory Review, the APCS shall determine all corrections and actions are recorded before completion and shall determine the status of the investigation by selecting:

- Close the Full Review with a Disposition of “Approved” when no further action is required; or,
- Close the Full Review with a Disposition of “Actions Approved” when all pending actions are resolved.

Montana

Name of Agency	Montana Department of Public Health and Human Services
Name of Program	Adult Protective Services
Data Sources	Montana APS Desk Manual, August 2016 NAMRS Agency Component Data FFY2016 Report

CONTEXT

ADMINISTRATION

The Montana Adult Protective Service Program operates under Title 52 Chapter 3 of the Montana Code Annotated. Montana has passed two separate APS Acts:

1. The Protective Services Act for the Aged Persons or Disabled Adults, Montana Code Annotated, Section, Title 52, Chapter 3, Part 2
2. The Montana Elder and Persons with Developmental Disability Abuse Prevention Act, Montana Code Annotated, Section, Title 52, Chapter 3, Part 8

Adult Protective Services (APS) is a state-run program within the Montana Department of Public Health and Human Services, Division of Senior and Long-Term Care. State law authorizes and requires that Adult Protective Services shall investigate reports of abuse, sexual abuse, neglect, or exploitation received. That Adult Protective Services will provide the least restriction possible in the exercise of personal and civil rights consistent with the person's need for protective services. APS's objective is to prevent and reduce the harm to vulnerable adults from abuse, neglect, and exploitation, while supporting individuals in maintaining control over their lives and in making informed choices without coercion.

SCOPE

The Adult Protective Services Act establishes a program designed to meet the needs of vulnerable adults who have been abused, neglected, or exploited. A vulnerable adult is any person age 60 years or older, or a person age 18 or older, who is determined by the state of Montana to be intellectually disabled, or has a physical or mental disability as defined by the state of Montana.

APS investigates reports of abuse, neglect or exploitation which occur anywhere in the State of Montana including in facilities such as adult group homes, adult foster homes, assisted living and nursing homes, but it does not investigate the facility itself. If the report concerns an incident between two residents in a residential setting or facility, and there is reason to believe

the incident could not have been anticipated and that the staff in the facility have taken appropriate action from preventing recurrence, APS does not investigate unless there are 3 or more of the same incident involving the same person.

APS investigates reports of abuse (including physical, psychological, medical and sexual abuse), neglect (including financial, medical, physical, psychological and self-neglect) or exploitation (including financial and property exploitation). Appendix B provides definitions of maltreatment types.

CONFIDENTIALITY

All of APS activities are kept confidential, including action of the local affiliate, the county attorney, and the court. Under certain circumstances, these records and report may be disclosed to the following people:

- A physician caring for the vulnerable adult
- A legal guardian of the vulnerable adult, as long as he or she is not the person suspected of the abuse and the identity of the reporter is protected
- The vulnerable adult named in the report as being abused, neglected or exploited, if that person is not legally incompetent
- A person engaged in bonafide research if the report is substantiated and the identity of the victim is protected
- A member of the adult protective services team
- An authorized representative of the provider if the provider is party to a contested legal case

GUIDING PRINCIPLES

APS operates according to guiding values and practice guidelines, as well the National Adult Protective Services Association Principles for APS.

Adult Protective Services Guiding Values

- *Every action taken by APS must balance the duty to protect the safety of the vulnerable adult with the adult's right to self-determination.*
- *Older persons and persons with disabilities who are victims of mistreatment should be treated with integrity and respect.*

APS Practice Guidelines

- *Recognize that the interests of the adult are the first concern of any intervention.*
- *Avoid imposing personal values on others.*
- *Seek informed consent from the adult before providing services.*
- *Respect the adult's right to keep personal information confidential.*
- *Recognize client differences such as cultural, historical and personal values.*

- *Honor the right of adults to receive information about their choices and options in a form or manner that they can understand.*
- *To the best of the worker's ability, involve the adult as much as possible in developing the service plan.*
- *Focus on service planning that maximizes the vulnerable adult's independence and choice to the extent possible based on the adult's capacity.*
- *Use the least restrictive services first and community-based services rather than institutionally-based services whenever possible.*
- *Use family and informal support systems first as long as this is in the best interest of the adult.*
- *Maintain clear and appropriate professional boundaries.*
- *In the absence of an adult's expressed wishes, service planning actions that are in the adult's best interest.*
- *Use substituted judgment in service planning when historical knowledge of the adult's values is available.*
- *Do no harm. A guiding principle that, whatever the intervention, the vulnerable adult's well-being is the primary consideration; inadequate or inappropriate intervention for the sake of intervention is doing harm.*

National Adult Protective Services Association Principles for APS

- *Adults have the right to be safe.*
- *Adults retain all their civil and constitutional rights, i.e., the right to live their lives as they wish, manage their own finances, enter into contracts, marry, etc. unless a court adjudicates otherwise.*
- *Adults have the right to make decisions that do not conform with societal norms as long as these decisions do not harm others.*
- *Adults have the right to accept or refuse services.*

INTAKE

REPORTERS

Mandated reporters include anyone in paid or unpaid roles who has regular contact with vulnerable individuals, including children, elderly adults, and people with disabilities. They are required to report any observed or suspected abuse, neglect or exploitation. All Adult Protective Services staff members are mandated reporters.

The name and identifying information of the reporter of an abuse, neglect, or exploitation report is kept confidential. During the investigation, the reporter's identity may be shared with APS staff; law enforcement agencies (includes Medicaid Fraud Control Unit); and city, county, and state attorneys. Releasing this information to anyone else would require the reporter's written consent or an order of the court.

PRIORITIES

Response Priority 1—Emergency Response: This is the response for when a vulnerable adult is in imminent danger of life-threatening harm, has a life-threatening injury or is a danger to him or herself. This response is necessary when a vulnerable adult has been unreasonably confined for an extended period, or requires 24-hour care but is without a caregiver; if sexual abuse has occurred and the alleged abuser maintains access to the vulnerable adult; or if financial exploitation has occurred and the vulnerable adult is at risk of imminent eviction. In these situations, the Adult Protective Services Specialist (APSS) must call 911 immediately. The response time will be determined by the Adult Protective Services Regional Supervisor (APRS) and emergency responders.

Response Priority 2—Within five (5) working days: This is the response for when a vulnerable adult has experienced a serious physical injury that requires medical treatment, but not life-threatening harm. This response is necessary when sexual abuse has occurred and law enforcement has already been called and responded; when financial exploitation has occurred, the person of interest maintains access to the vulnerable adult, and the vulnerable adult is able to meet his or her needs for about a week; or when the vulnerable adult has been unreasonably confined

Response Priority 3—Within ten (10) working days: Any accepted reports that do not meet the criteria for Response Priority 1 or 2 must be responded to within 10 working days.

The APRS has the authority to override the criteria for response times or classification based on information gathered by the APSS.

INVESTIGATION

AUTHORITY

Adult Protective Services is mandated by the Montana Code to investigate when a report of adult abuse, neglect or financial exploitation is received. The Department has no authority to require the vulnerable adult to have a medical examination or to pay for an examination.

The vulnerable adult may refuse to participate in the investigation and may refuse to sign any releases. If this happens, the APSS will make efforts to determine the vulnerable adult's ability to understand their current situation and the possible consequences. The APSS will use the information to draw a conclusion regarding the vulnerable adult's decision-making capacity. If

the APSS determines that the vulnerable adult demonstrates an understanding of their situation and the possible consequences, the APSS will respect the right of the vulnerable adult to refuse to participate in an investigation. The APSS must coordinate with the APSRS to identify options for completing the investigation, but the investigation may come to a close without findings.

The APSS may provide involuntary emergency protective services only under the following circumstances:

- The vulnerable adult is age 60 or older or has an intellectual disability as defined by the state of Montana.
- The vulnerable adult is suffering from abuse, sexual abuse, neglect, or exploitation that presents a substantial risk of death or serious physical injury.
- APSS must have reasonable grounds to believe the vulnerable adult is incapacitated.
- The vulnerable adult has refused voluntary services.

The APSS must consult with the APSRS before proceeding with an emergency involuntary service. Emergency Involuntary Protective Services include removal from the unsafe environment and facilitation of and appropriate emergency protective service placement, arrangement for transportation to the appropriate placement, involuntary hold to keep the vulnerable adult in a safe environment, and pursuit of a temporary guardianship. Within two judicial days following any involuntary hold placement, either voluntary protective services must be provided or a petition to the district court for temporary guardianship must be submitted.

CASE INITIATION

Prior to beginning the investigation, the APSS needs to review all the referral information, including any history that the vulnerable adult has with abuse, neglect, or exploitation, knowledge to APS or law enforcement. Based on the elements of the referral, including potential danger to the vulnerable adult and to the APSS, the APSS needs to plan the order, location, and circumstances for interviewing the vulnerable adult, family members, collateral contacts, reporter, and alleged person of interest. He or she also should gather necessary medical, legal, or financial documents, identify any services already in place, and identify any cultural issues that will have an impact on the investigation.

The APSS is required to make a face-to-face contact with the vulnerable adult within the assigned timeframe to initiate the case, provide him or her with the handout entitled “Vulnerable Adult Rights,” and briefly explain its content. If the vulnerable adult has a decision maker that is a guardian/conservator, the “Vulnerable Adult Rights” handout must be provided to them as well. If applicable, the APSS must review the most recent Power of

Attorney/guardianship document and request a copy for APS records. The APSS will clarify any questions that the vulnerable adult or the guardian has during the assessment/investigation.

If a vulnerable adult is alleged to have been abused or neglected in a facility, the APSS will contact the vulnerable adult's legal guardian as soon as possible to inform him or her of the report and allegations, that an investigation is taking place, and the safety/protective or corrective actions taken.

Prior to interviewing the person of interest, the APSS must provide him or her with the handout "Person of Interest" Rights during the Adult Protective Service Process, and briefly explain the content. If the person of interest has a guardian/conservator, the handout "Person of Interest Rights" during the Adult Protective Service Process must be provided to them as well.

If the APSS is unable to contact any of these individuals and provide these handouts, the APSS must notify the APSRS and document the reasons in APS database system.

CONDUCTING INVESTIGATION

A risk assessment must be completed as soon as conceivable (within 30 days) after meeting with the vulnerable adult. The APS program has a systematic screening method to conduct a needs/risk assessment, including the vulnerable adult's strengths and weaknesses. The APSS does not carry out clinical health or capacity assessments, just screens for indications of impairment and refers the vulnerable adult to qualified professionals (such as physicians or neuropsychologists) to administer further assessments as needed, at his or her own expense.

During the initial interview process the APSS will gather date-of-birth verification and medical information to confirm whether the person meets the definition of a vulnerable adult (is 60 years of age or older, has a state recognized disability and is age 18 to 59, or has been diagnosed as intellectually disabled according to the state of Montana). The APSS will complete screening tools including but not limited to:

- Assessment of Capacity for Everyday Decision Making (ACED)
- Short Portable Mental Status Questionnaire (SPMSQ)
- Montreal Cognitive Assessment (MOCA)
- The Saint Louis University Mental Status (SLUMS)

In determining whether a mental or functional impairment is present, the APSS will not rely on a single screening tool but will use all the information gathered. If an impairment is indicated, the APSS must make a referral for further evaluation by a licensed professional, if this has not already been done. The APSS will document as soon as possible, no later than 5 days after the event, how the identified impairment impairs judgment or behavior and/or results in a substantial incapability to live independently or to provide self-care, including providing

personal protection and necessities such as food, shelter, clothing, mental or health care, managing resources, and comprehending the nature and consequences of remaining in a situation of abuse, neglect, or exploitation.

Various federal and state authorities either require or encourage reporting of information suggesting financial exploitation to the appropriate agency. Reporting suspected financial abuse of older adults to appropriate local, state, or federal agencies does not, in general, violate financial institution privacy regulations.

The APSS will ask the vulnerable adult to sign a release of information to obtain medical records, including medication lists, from the vulnerable adult's physician. If the vulnerable adult exhibits impaired decision-making capacity, no authorization to release information will be obtained from the vulnerable adult. If a guardian has been appointed, that person should be asked for authorization to obtain records. Under the Health Insurance Portability and Accountability Act of 1996 (HIPAA), disclosure of protected health information is permitted, with or without the vulnerable adult's consent, if sharing of this information is related to reporting of abuse/neglect, or is necessary to comply with state requirements related to conducting Adult Protective Service investigations. The APSS may need to provide education to health care professionals regarding the exceptions to the federal regulation.

Investigations must be completed within 60 calendar days from the date the report was accepted for investigation. With approval of the APSRS, up to two extensions of 15 days each may be granted by the APSRS for extenuating circumstances. No more than a maximum as 90 days in total may be taken to complete an investigation.

DISPOSITIONS

The standard of evidence for substantiating an allegation of maltreatment is preponderance of evidence.

The investigation will determine whether the allegations are:

- **Substantiated:** a preponderance of the evidence (greater than 50%) that abuse, neglect or exploitation has occurred.
- **Unsubstantiated:** a preponderance of evidence (greater than 50%) that abuse, neglect or exploitation has not occurred.
- **Inconclusive:** unable to gather enough evidence to support or refute the allegation and have exhausted all leads in the investigation.

Based on the extant materials, no information is available on communicating the results of the investigation, or on legal consequences for substantiated perpetrators.

POST-INVESTIGATIVE SERVICES

AUTHORITY

Throughout the investigation, APS may refer the vulnerable adult to community programs or may arrange for services to meet the vulnerable adult's needs. These services may include medical care, initiation of legal services, emergency transportation, and the emergency provision of food, clothing, shelter or supervision, supports groups, respite services, legal and financial planning, or assistance obtaining State Fire Marshal and County Department of Health inspections of the adult's living arrangement, when hazardous. These services would be at the expense of the vulnerable adult. APS will also connect the non-offending caregiver or guardian to providers for the needed services.

After the investigation, the APSS will determine whether the vulnerable adult requires a service plan. Service plans are intended to mitigate or manage impending danger, have an immediate effect, be immediately accessible and available and contain safety services and actions only. They must be sufficient to ensure safety but are not services designed to effect long-term change. Service plans identify safety actions to manage each impending danger, who will perform the safety actions, and in what timeframes, (frequency, duration) the safety actions will occur.

Services plans are either voluntary or involuntary. When the vulnerable adult consents to services, he or she participates in developing the service plan. Voluntary service plan development includes:

- Identifying factors that influence intervention risk and needs.
- Engaging the vulnerable adult in an ethical manner with useful strategies to develop mutual goals to decrease risk of abuse.
- Determining with the vulnerable adult and other reliable sources (such as family members, friends and community partners) the appropriate interventions that would decrease risk of abuse.
- In some cases, the use of a proper domestic violence safety planning tool is warranted.

The vulnerable adult has the right to refuse APS services and the right to know what may happen if they refuse, unless deemed incompetent by a court of law.

During the initial contact with the vulnerable adult, the APSS will draw a preliminary conclusion about whether he or she has capacity to consent or refuse services, and during subsequent visits will continue to observe and document the vulnerable adult's decision-making capacity, and document these observations along with past screening history.

If the vulnerable adult has been determined to have capacity to consent to or refuse services, he or she may refuse to accept needed and offered services. When this happens, the APSS must document in the APS system the need for services, the refusal of the victim to accept services, and their stated reason for refusal of services. When the vulnerable adult lacks capacity or cannot consent to services but there is a determination of imminent risk, APS may obtain legal standing to provide an involuntary intervention by involving either a court or other agency with legal jurisdiction. APS programs follow local laws and policies regarding providing involuntary services to vulnerable adults who lack the capacity to protect themselves from maltreatment.

Involuntary service plans must maintain a focus on the ethical issues of when and why the vulnerable adult's immediate safety takes precedence over the vulnerable adult's right to self-determination. All decisions to provide involuntary interventions must be meticulously documented. Both voluntary and involuntary service plans are continually monitored and additional services can be facilitated as needed, with the vulnerable adult's involvement. The State of Montana does not provide funding for the services; all services are at the expense of the adult.

Based on the extant materials, no information is available on services for perpetrators.

APPROACH

Service plans should be based on the least intrusive/restrictive intervention. This means the most intrusive options are used only after all least intrusive options have been determined to be insufficient to assure safety. The APSS maintains responsibility and accountability for the adequacy of the service plan. The service plan must be monitored through regular face-to-face contacts with the vulnerable adult and the community service provider to insure needs are being met for no more than 90 days. The State does not provide funding for services.

When the goal of reducing or eliminating risk of abuse, neglect, or exploitation of a vulnerable adult is met, APS closes the case. Reasons for closing a case include removal or reduction of risk, vulnerable adult (with capacity) refusal of services, vulnerable adult referral to another agency, vulnerable adult placement in services, or death of the vulnerable adult.

When a vulnerable adult request that services be discontinued or fails to participate in the services, the APSS evaluates the plan to assure that the goal remains consistent with the individual's wants and needs. Prior to closing any service plan, the APSS visits with the vulnerable adult in person. If the vulnerable adult has moved or is deceased, this will be documented in the APS data system.

QUALITY ASSURANCE

The APS Regional Supervisor is responsible for ensuring that all APS employees are performing their duties as required by Montana statutes and program policies and procedures. The APSRS provides guidance and training through regularly scheduled conferences, case monitoring, evaluations, regional meetings, case staffing, and planned training activities. The APSRS also reads cases, completes all required reports, identifies personnel needs and problems, completes evaluations, and coordinates the region's work flow. During intake, the APSRS has the authority to override the criteria for response times or classification based on information gathered by the APSS, and may also grant extensions beyond the 60 days required to complete the investigation, for extenuating circumstances, but no more than a maximum as 90 days in total may be taken to complete an investigation.

The APS has a systematic method of documenting the entire APS process. The investigation summary is a written record of the facts and the conclusion of each investigation, which includes the following sections;

- Alleged victim
- Organization provider (if any)
- Safety response
- Alleged person of interest
- Evidence/contact summary
- Maltreatment
- Recommendations for services
- Recommendations to county attorney

The APSS will upload the investigation summary to the APS data system as soon as possible, but no later than 5 working days after review by the APSRS. All documentation for an investigation or case must be entered into the APS data system as soon as possible; but must be within 5 days of each contact or event. Risk assessments must be completed in the APS data system within 30 days of the initial contact with the vulnerable adult and anytime there is a change in the status of the vulnerable adult. Notes must reflect and support the risk assessment. All documents obtained relevant to the APS investigation/service plan are scanned and uploaded to the APS data system as soon as possible; but must be within 5 days of the receipt of the information. Supporting documents such as screening instruments, photos, body charts diagrams or statements are also uploaded into the APS data system as soon as possible; but must be within 5 days of receipt or completion.

The record should contain documentation of APS interventions, their outcomes, an assessment of their effectiveness, and the reason for the decision to close the service plan. Documentation

should include whether the vulnerable adult's needs were met, and any concerns or issues that were not addressed or accepted, current demographic information on the vulnerable adult, and the day, date, time and location of final meeting with the vulnerable adult.

Based on the extant materials, no information is available on a formal quality assurance program.

Nebraska

Name of Agency	Nebraska Department of Health and Human Services
Name of Program	Adult Protective Services
Data Sources	APS Policy Manual Nebraska Legislature NAMRS Agency Component Data FFY2020 Report

CONTEXT

ADMINISTRATION

The Nebraska Adult Protective Services Programs operates under Title [28-348](#) to [28-387](#) of Nebraska Revised Statutes. It is a state-run program within the Department of Health and Human Services (DHHS).

SCOPE

Adult Protective Services (APS) investigates allegations involving vulnerable adult, defined as any person 18 years or older who has a substantial mental or functional impairment or for whom a guardian has been appointed under the Nebraska Probate Code. APS investigates maltreatment types including physical abuse, unreasonable confinement, meth exposure, sexual abuse, sexual exploitation, neglect by a caregiver, self-neglect, exploitation, and financial exploitation. Definitions are provided in appendix B for maltreatment types.

The Division of Children and Family Services (CFS) Specialist investigates reports of abuse, neglect, and exploitation reports which occur in a facility or allegations against a provider of home based services. APS does not investigate the organization itself.

CONFIDENTIALITY

The Department will allow access to APS records to any person legally authorized under Nebraska law. All information regarding vulnerable adults served by the APS Program is confidential, except for these persons, officials, and agencies:

- *A law enforcement agency investigating a report of known or suspected abuse;*
- *A county attorney in preparation of an abuse petition;*
- *A physician who has before him/her a person whom s/he reasonably suspects may be abused;*
- *An agency having the legal responsibility or authorization to care for, treat, or supervise an abused vulnerable adult;*

- *Defense counsel in preparation of the defense of a person charged with abuse;*
- *Any person engaged in bona fide research or auditing, except that no information identifying the subjects of the report is made available to the researcher or auditor;*
- *The designated protection and advocacy system authorized pursuant to federal law and when acting upon a complaint received from or on behalf of a person with developmental disabilities or mental illness; and*
- *The Department of Health and Human Services Regulation and Licensure. (See Neb Rev. Stat. § 28-377), for purposes of licensing providers of child care programs.*

The CFS Specialist may release information essential for the protection of a vulnerable adult to a Guardian Ad Litem for a vulnerable adult or a court appointed visitor in continuance of purposes directly related to the APS Act. Unless ordered by a court of capable jurisdiction, the CFS Specialist will not release data that would be harmful to the vulnerable adult or that would identify or locate a person who made a report or cooperated in a subsequent investigation.

GUIDING PRINCIPLES

Nebraska adopted the following principles for APS developed by the National APS Association:

- *Adults have the right to be safe.*
- *Adults retain all their civil and constitutional rights unless some of these rights have been restricted by court action.*
- *Adults have the right to make decisions that do not conform with societal norms if these decisions do not harm others.*
- *Adults are presumed to have decision-making capacity unless a court adjudicates otherwise.*
- *Adults have the right to accept or refuse services.*

Nebraska adopted the following guidelines for CFS specialists developed by the National APS Association:

- *Recognize that the interests of the adult are the first concern of any intervention.*
- *Avoid imposing personal values on others.*
- *Seek informed consent from the adult before providing services.*
- *Respect the adult's right to keep personal information confidential.*
- *Recognize individual differences such as cultural, historical and personal values.*
- *Honor the right of adults to receive information about their choices and options in a form or manner that they can understand.*
- *To the best of one's ability, involve the adult as much as possible in developing the service plan.*

- *Focus on case planning that maximizes the vulnerable adult's independence and choice to the extent possible based on the adult's capacity.*
- *Use the least restrictive services first whenever possible—community-based services rather than institutionally-based services.*
- *Use family and informal support systems first as long as this is in the best interest of the adult.*
- *Maintain clear and appropriate professional boundaries.*
- *In the absence of an adult's expressed wishes, support casework actions that are in the adult's best interest. (This means that if you have no knowledge of historical decision making of the person or the person has never had the ability to make decisions, then, making decisions is based on the standard of what is in the best interest of the person.)*
- *Use substituted judgment in case planning when historical knowledge of the adult's values is available. (This means you have knowledge of how a person historically made decisions, so, that information is used to make decisions.)*
- *Do no harm. Inadequate or inappropriate intervention may be worse than no intervention.*

INTAKE

REPORTERS

Nebraska Revised Statute 28-372. Report of abuse, neglect, or exploitation; required; contents; notification; toll-free number established.

- (1) When any physician, psychologist, physician assistant, nurse, nursing aide, other medical, developmental disability, or mental health professional, law enforcement personnel, caregiver or employee of a caregiver, operator or employee of a sheltered workshop, owner, operator, or employee of any facility licensed by the department, or human services professional or paraprofessional not including a member of the clergy has reasonable cause to believe that a vulnerable adult has been subjected to abuse, neglect, or exploitation or observes such adult being subjected to conditions or circumstances which reasonably would result in abuse, neglect, or exploitation, he or she shall report the incident or cause a report to be made to the appropriate law enforcement agency or to the department. Any other person may report abuse, neglect, or exploitation if such person has reasonable cause to believe that a vulnerable adult has been subjected to abuse, neglect, or exploitation or observes such adult being subjected to conditions or circumstances which reasonably would result in abuse, neglect, or exploitation.
- (2) Such report may be made by telephone, with the caller giving his or her name and address, and, if requested by the department, shall be followed by a written report

within forty-eight hours. To the extent available the report shall contain: (a) The name, address, and age of the vulnerable adult; (b) the address of the caregiver or caregivers of the vulnerable adult; (c) the nature and extent of the alleged abuse, neglect, or exploitation or the conditions and circumstances which would reasonably be expected to result in such abuse, neglect, or exploitation; (d) any evidence of previous abuse, neglect, or exploitation, including the nature and extent of the abuse, neglect, or exploitation; and (e) any other information which in the opinion of the person making the report may be helpful in establishing the cause of the alleged abuse, neglect, or exploitation and the identity of the perpetrator or perpetrators.

- (3) Any law enforcement agency receiving a report of abuse, neglect, or exploitation shall notify the department no later than the next working day by telephone or mail.
- (4) A report of abuse, neglect, or exploitation made to the department which was not previously made to or by a law enforcement agency shall be communicated to the appropriate law enforcement agency by the department no later than the next working day by telephone or mail.
- (5) The department shall establish a statewide toll-free number to be used by any person any hour of the day or night and any day of the week to make reports of abuse, neglect, or exploitation.

28-375. Immunity from liability; when.

Any person participating in an investigation or the making of a report pursuant to the Adult Protective Services Act or participating in a judicial proceeding resulting therefrom shall be immune from any liability except (1) as otherwise provided in the Adult Protective Services Act, (2) for malfeasance in office or willful or wanton neglect of duty, or (3) for false statements of fact made with malicious intent.

28-378. Records relating to abuse; release of information; when.

The department or appropriate law enforcement agency shall provide requested information to any person legally authorized by sections 28-376 to 28-380 to have access to records relating to abuse when ordered by a court of competent jurisdiction or upon compliance by such person with identification requirements established by rules and regulations of the department or law enforcement agency. Such information shall not include the name and address of the person making the report, except that the county attorney's office may request and receive the name and address of the person making the report with such person's written consent. The name and other identifying data of any person requesting or receiving information from the registry and the dates and the circumstances under which requests are made or information is released shall be entered in the registry.

PRIORITIES

Nebraska's policy categorizes accepted reports into three priorities; the highest priority timeframe is a response within 8 hours, the second is a response within 5 days, and the third is a response within 10 days.

Response Priority 1: response to report must occur within 8 hours. Investigation must be completed within 60 calendar days from the date the report was accepted for investigation. A 15-calendar day extension may be granted. Priority 1 allegations involve a vulnerable adult who:

- Is in imminent danger of death or life-threatening harm
- Has experienced or is likely to experience serious impairment or disfigurement in the current incident
- Is an alleged victim of sexual abuse and Law enforcement has not responded; OR The incident occurred within the previous 72 hours
- Is an alleged victim of sexual abuse or sexual exploitation and the alleged perpetrator still has access?
- Is an alleged victim of financial exploitation AND this exploitation caused the victim to be lacking food, shelter, or necessary supervision, or such loss is imminent within the next week
- Requires total care and/or 24-hour supervision and is currently without a caregiver
- Is currently unreasonably confined, and has been for an extended period

Response Priority 2: Response to report must be completed within 5 business days. Investigation must be completed within 60 calendar days or 90 calendar days in cases of alleged financial exploitation. A 15-calendar day extension may be granted by the supervisor. Priority 2 allegations involve a vulnerable adult who:

- Has experienced serious, but not life-threatening, harm
- Is an alleged victim of sexual abuse or sexual exploitation?
- Is currently being subjected to exploitation and/or the alleged perpetrator retains access to the vulnerable adult or his/her resources
- Has been unreasonably confined and the alleged perpetrator retains access. The reporter alleges the vulnerable adult has been unreasonably confined in the current incident, and the alleged perpetrator still has care of or supervision over the vulnerable adult.

Response Priority 3: Response to report must be completed within 10 business days. Investigation must be completed within 60 calendar days or 90 calendar days in cases of alleged financial exploitation. A 15-calendar day extension may be granted by the supervisor.

- Any accepted reports not meeting criteria for response Priority 1 or 2

INVESTIGATION

AUTHORITY

State policy points out that financial institutions are allowed to disclose information for APS investigations. These disclosures of information may be made either at the agency's request or on the financial institution's initiative. The CFS Specialist will inform the vulnerable adult of the need for documents and how they will be used. The CFS Specialist will ask the alleged victim to sign an Authorization to Release Information allowing the release of information. When the CFS Specialist has decided the vulnerable adult shows an impaired decision-making capacity, no Authorization to Release information will be needed from the vulnerable adult. The CFS Specialist will request, review, and use law enforcement reports to decide what evidence may exist or what may need to be obtained based on the information already collected by LE. The CFS Specialist may use medical records to prove the medical history of the vulnerable adult, document injuries or evidence of a sexual assault. The CFS Specialist will rely on Law Enforcement for collection of physical evidence.

The legal authority to investigate allegations of abuse of a vulnerable adult overrides preliminary objection to the investigation made by the vulnerable adult. If the CFS Specialist finds the alleged vulnerable adult/victim uncooperative with the investigation, they will try to determine the alleged victim's ability to understand their current situation and likely consequences should present conditions continue. If the vulnerable adult demonstrates unimpaired decision-making capacity, the CFS Specialist will respect the individual's right to privacy, autonomy, and self-determination regarding any further APS interventions. The CFS Specialist decides if ongoing protective services are required to resolve or control the mistreatment. If the vulnerable adult is unwilling to voluntarily participate in services and shows signs of impaired decision making to consent or refuse services, the CFS Specialist may decide to formally request that the county attorney file a petition for court authorization to intervene. The CFS specialist will determine whether involuntary adult protective services or an emergency guardianship or conservatorship may be necessary. If court authority is granted, the case is opened for ongoing services, further assessment, and case planning.

CASE INITIATION

The Department shall utilize the APS Structured Decision Making (SDM®) as the tool for screening reports of adult abuse, neglect, and exploitation. Allegations that meet the definition of vulnerable adult abuse and/or neglect must be assigned for investigation. The intake worker completes the screening tool and the supervisor reviews and approves.

CONDUCTING INVESTIGATION

The CFS Specialist will draw a conclusion about the alleged victim's capacity to consent or refuse services. To make an initial determination of meeting the definition of vulnerable adult, the CFS Specialist will gather information about physical and mental conditions and ability to live independently and/or provide self-care from the alleged victim during the initial contact; gather Medical Information; make observations of the environment and the alleged victim's behavior; and complete necessary screenings using reliable, tested, and validated screening tools. When making an initial determination whether a substantial mental or functional impairment is present, the CFS Specialist will identify the substantial condition or limitation and describe their ability to live independently or provide self-care. The CFS Specialist will consider how and to what degree the physical limitations or mental conditions substantially affect their ability to provide personal protection; provide necessities such as food, shelter, clothing, mental or health care; obtain services necessary; carry out activities of daily living; manage own resources; comprehend the nature and consequences of remaining in a situation of abuse, neglect, or exploitation; and description of ability to care for self. The CFS Specialist will request permission to administer one or more of the screening instruments. The CFS Specialist will review records about background and history to determine the vulnerable adult's ability to plan and execute a plan; recognize risk factors; understand and follow directions; indicators of affective disorders such as depression; indicators of substance use disorders, dementia, psychosis, traumatic brain injury, and impaired decision making; and their short and long-term memory.

DISPOSITIONS

The three necessary components that must be present in deciding whether the case status determination should be Agency Substantiated are credible evidence to support the determination; Abuse of a Vulnerable Adult as defined in statute and policy materials; and evidence to a standard of preponderance.

The CFS Specialist will inform the alleged victim of the findings of the investigation in writing. When the case status determination is made that places the individual on the Central Registry a letter of notification will be sent to the perpetrator. Individuals whose names will not be placed on the Central Register (the report will be classified as Unfounded) will also be informed in writing.

Dispositions are defined as follows:

- *Court-Substantiated*—the perpetrator is found guilty or pleads guilty or no contest to charges stemming from the alleged abuse, neglect, or exploitation in a court of competent jurisdiction. An allegation with this finding will list the perpetrator on the Central Registry.
- *Agency Substantiated*—the CFS Specialist determines through the investigation and the preponderance of evidence supports the allegation of abuse, neglect, or exploitation and the victim is a vulnerable adult and court intervention doesn't occur. An allegation with this finding will list the perpetrator on the Central Registry.
- *Unfounded*—the CFS Specialist determines through the investigation that there is insufficient evidence that abuse, neglect, or exploitation occurred. An allegation with this finding will not list any persons on the Central Registry.
- *Not a Vulnerable Adult*—the alleged victim does not meet the criteria needed to be considered a vulnerable adult at the time of the CFS Specialist contact with the alleged victim. This finding does not make a determination regarding the allegation. An allegation with this finding will not list any persons on the Central Registry.
- *Unable to Locate*—DHHS has made a good faith attempt to locate the subject(s) of the report but has been unable to locate them, this case status determination must be used.

The department has established and upholds an APS Central Registry, in which each substantiated report regarding a person who has allegedly abused, neglected, or exploited a vulnerable adult is recorded. It contains information regarding the vulnerable adult; the person who allegedly abused, neglected, or exploited a vulnerable adult that has been department substantiated; and other data gathered for statistical purposes. When the allegations are substantiated, the investigation summary is forwarded to the county attorney as a request to pursue criminal charges.

POST-INVESTIGATIVE SERVICES

AUTHORITY

At the end of the initial interview and throughout the investigation, the CFS Specialist will identify the risk factors and concerns of the vulnerable adult. The CFS Specialist may make referrals to community programs or arrange for services. These services may include medical care, initiation of legal services, emergency transportation, and the emergency provision of food, clothing, shelter, or supervision. When the allegations are Substantiated, the CFS Specialist may offer ongoing service coordination. The CFS Specialist will assess the concerns with the alleged vulnerable adult/victim and discuss available resources. If the alleged victim

disagrees with identified concerns, but seems to understand the situation and consequences and continues to refuse to partake in making a service coordination plan, the CFS Specialist will respect the vulnerable adult's decisions.

Based on the extant materials, no information is available on if APS provides services to perpetrators or family members.

Nebraska APS provides supportive services that may benefit family members indirectly, but the actual "service" is more for the victim. Ongoing services may include helping the family member with getting services set up for the vulnerable adult; for example, Developmental Disabilities services, waiver, or respite services.

APPROACH

The Adult Protective Services program is required to place the least restriction possible on the exercise of personal and civil rights in line with the person's need for services.

The Social Services Block Grant has been the sole funding source for APS and may be used after all other funding sources have been accessed. The State can pay for and provide most services; however, there may be certain locations where certain services may not be offered, especially in rural areas. As of April 1, 2021, Nebraska has been approved for Coronavirus Response and Relief Supplemental Appropriations Act of 2021: Grants to Enhance Adult Protective Services to Respond to COVID-19. Nebraska APS has set aside a portion of the grant monies for direct services to vulnerable adults to be used over the 18-month period from April 1, 2021 through September 30, 2022.

The typical ongoing APS case management can last up to 180 days; however, a one-time 180-day extension may be granted by the CFS Supervisor. When closing a case, the CFS Specialist makes all rational efforts to solve problems that led to the abuse, neglect, or exploitation and stabilize the client's condition before closure. The CFS Specialist closes a case in the service delivery stage when the client moves out of Nebraska; the client moves from the Services Area and is no longer in need of protective services; the CFS Specialist is unable to locate the client; identified problems are resolved and the client is no longer abused, neglected, or exploited; the client makes other living arrangement such as moving to a long-term care facility and protective services are no longer needed; the client who is able to consent and for whom a service plan was developed withdraws from protective services; the perpetrator may no longer have access to the vulnerable adult; another caregiver may be available to ensure safety; a power of attorney has been assigned; and/or the client dies.

QUALITY ASSURANCE

When the supervisor approves a case closure, the CFS Supervisor is signifying agreement with the CFS Specialist that the client is not in a state of abuse, neglect, or exploitation. Supervisors

will deny closure of a case if the client shows needs related to abuse, neglect, or exploitation, or other reasons not listed. Documentation must be completed on all APS cases.

Weekly supervision sessions with individual CFS Specialists will be held to deliver quality support and assistance to staff. Supervision should be provided as outlined below:

- *Formal supervision/staff should occur at least weekly either by phone, webcam, or in person;*
- *In person supervision should occur at least once a month;*
- *The primary focus of supervisory meetings should be to review the overall status of a CFS Specialist's caseload, to discuss specific cases and to provide direction. Other issues, such as training needs, should periodically be incorporated into these meetings.*
- *During case discussions, the supervisor should ask probing questions to ensure that all relevant case issues are completely explored and addressed.*
- *Daily supervision is necessary for supervisors to follow-up with CFS Specialists on specific cases or certain aspects of cases in between these scheduled times. The extent and frequency of this follow-up will vary, and should be determined based on CFS Specialist experience and skill, complexity of the cases and severity of risk or potential risk to affected elders.*
- *It is critical that supervisors are available to their CFS Specialists for additional direction or consultation, especially during a crisis situation.*
- *When appropriate, the supervisor should accompany the CFS Specialist on visits, assist with collateral telephone calls, and guide the CFS Specialist through legal proceedings.*
- *Unit meetings for CFS Specialists are strongly encouraged.*

Based on the extant materials, no information is available on State policy regarding quality assurance activities for the APS program.

Nebraska APS has its own Continuous Quality Improvement which collects data and reports monthly on the following trends:

Chapter 1: Prevention and Early Intervention

- Adult Protective Services Intakes – Past 3 Months
- Adult Protective Services Intakes - Trends by Service Area (Past 12 Months)
- Adult Protective Services Recurrence Details
- Adult Protective Services Recurrence Trends

Chapter 2: Safety

- APS Face to Face Contact Time Frame
- APS Investigation Timeframes – Ready for Review Status
- APS Investigation Timeframes – Final Status from Ready for Review
- APS Investigation Timeframes – Final Status from Intake
- APS Monthly Contact
- APS Quality Measures – Statewide – Timeliness
- APS Quality Measures – Statewide – Alleged Victim, Safety Response, Alleged Perpetrator, & Evidence & Contacts
- APS Quality Measures – Statewide – Maltreatment

Nevada

Name of Agency	Nevada Department of Health and Human Services
Name of Program	Adult Protective Services
Data Sources	NAMRS Agency Component Data FFY2020 Report APS Social Worker Clinical Manual Adult Protective Services (APS) How to Manual

CONTEXT

ADMINISTRATION

The Nevada Adult Protective Services program (APS) is authorized under Nevada Revised Statute (NRS 200.5091~NRS 200.50995). APS is a state-run program within the Aging and Disability Services Division (ADSD), a division within the Nevada Department of Health and Human Services (DHHS).

SCOPE

APS receives and investigates reports of abuse, neglect, self-neglect, exploitation, isolation and abandonment for vulnerable adults age 18-59, in addition to persons 60 years and older, collectively referred to as vulnerable adults, living in the community in private homes, residential care community facilities, skilled nursing facilities, and hospitals.

The mission statement of APS is to assist vulnerable adults, age 18 to 59, in addition to persons 60 years and older who are abused, neglected, exploited, isolated or abandoned by investigating, providing or arranging for services to alleviate and prevent further maltreatment while safeguarding their civil liberties.

Per NRS 200.5092 “Vulnerable person” means a person 18 years of age or older who:

- (a) Suffers from a condition of physical or mental incapacitation because of a developmental disability, organic brain damage or mental illness; or
- (b) Has one or more physical or mental limitations that restrict the ability of the person to perform the normal activities of daily living.

CONFIDENTIALITY

According to the APS How to Manual:

Information and records acquired by APS are confidential, as are APS reports and records. ADSD may release information to law enforcement, district attorneys, treating physicians and facilities, the grand jury and court, legal guardians, researchers (if identity of subjects remain confidential), a comparable authorized person or agency, executor of the deceased client's estate, and the older person themselves (if not declared legally incompetent). ADSD and other entities investigating vulnerable adult abuse can release data or information concerning reports and investigations to other federal, State, or local agencies or legal representatives of vulnerable adults if it is determined to be in the best interest of the vulnerable adult and proper precautions are in place to ensure confidentiality of the information. Reporters may choose to remain anonymous.

GUIDING PRINCIPLES

APS Investigators comply with the division policy related to professional practices, such as office conduct, confidentiality, preventive safety measures for workers, and de-escalating dangerous situations in the field.

APS How to Manual provides a brief list of professional conduct guidelines that include: “be respectful and non-threatening, use language that is easy to understand and explain any technical terms, and guide contacts toward the desired goals, yet be flexible enough to adjust goals according to any new information received.”

APS follows two professional codes of ethics: National Association of Social Workers (NASW) and the National Adult Protective Services Association (NAPSA). Licensed social workers must always follow the NASW Code of Ethics.

Nevada APS key principles are:

- The social worker's primary responsibility is to promote client well-being.
- Respect right to confidentiality & self-determination.
- Safeguard the interests and rights of clients who lack capacity to make informed decisions.
- Treat clients with honesty, caring, and respect.

INTAKE

REPORTERS

Mandatory reporters must make the report immediately after the event to Aging and Disability Services Division or local law enforcement, but no later than 24 hours after there is reason to believe that a vulnerable adult has been abused, neglected, exploited, isolated or abandoned.

Mandatory reporters include:

- Medical professionals
- Employees of hospitals and home health agencies
- Social workers
- Coroners
- Law enforcement employees
- Adult or juvenile probation officers
- Department of Health and Human Services' employees, except the State Long-Term Care Ombudsman appointed pursuant to NRS 427A.125 and any of his or her advocates or volunteers are prohibited from making such a report pursuant to 45 C.F.R. § 1321.11
- Mortuary or funeral home employees
- Employees of the facilities providing care for vulnerable adults
- Music therapists

Individuals filing a report or providing information for an intake or APS staff are protected from retaliation and reprisals.

PRIORITIES

Per the APS Social Worker Clinical Manual:

NV APS program policy calls for screened in reports to be assigned a priority of either Level 1 or Level 2 based upon the perceived level of danger to which the reported victim is subjected. The perceived level of danger to the reported victim is surmised based upon a careful consideration of the intake information and screening process. Level 1 reports must receive an APS response within two hours if possible, but within one business day at most. Level 2 reports receive an APS response within three business days.

INVESTIGATION

AUTHORITY

Per NRS 200.593 (8), If the investigation of a report results in the belief that an older person or vulnerable person is abused, neglected, exploited, isolated or abandoned, the Aging and Disability Services Division of the Department of Health and Human Services or the county's office for protective services may provide protective services to the older person or vulnerable person if the older person or vulnerable person is able and willing to accept them.

Per NRS 200.50984, Inspection of records pertaining to older person or vulnerable person on whose behalf investigation is conducted.

1. Notwithstanding any other statute to the contrary, the local office of the Aging and Disability Services Division of the Department of Health and Human Services and a county's office for protective services, if one exists in the county where a violation is alleged to have occurred, may for the purpose of investigating an alleged violation of [NRS 200.5091](#) to [200.50995](#), inclusive, inspect all records pertaining to the older person or vulnerable person on whose behalf the investigation is being conducted, including, but not limited to, that person's medical and financial records.

Referrals to law enforcement are made as soon as the APS Investigator suspects a crime has been committed and are completed with Supervisor approval.

An APS client with capacity can refuse an investigation. Nevada APS does not have legislative authority for involuntary interventions for APS clients such emergency protective orders.

CASE INITIATION

Case investigations commence based on priority. Priorities are assigned to either Level 1 (initiate same day or within 24 hours – per the direction of the supervisor) or Level 2 (initiate within 3 business days). Working days are defined as days ADSD is open for business. The first working day after the report is received counts as Day 1. Case initiation occurs when the APS Investigator makes the first face-to-face attempt to meet with the client.

CONDUCTING INVESTIGATION

Per Nevada Revised Statute 200.50984 (1), Notwithstanding any other statute to the contrary, the local office of the Aging and Disability Services Division of the Department of Health and Human Services and a county's office for protective services, if one exists in the county where a violation is alleged to have occurred, may for the purpose of investigating an alleged violation of NRS 200.5091 to 200.50995, inclusive, inspect all records pertaining to the vulnerable adult on whose behalf the investigation is being conducted, including, but not limited to, that person's medical and financial records.

Per the APS Social Worker Clinical Manual, APS addresses the following areas in conducting a client assessment during an APS investigation:

- Maltreatment specifics;
- Physical health, functional ability, mental health status;
- Decision-making capacity and ability to direct own care;
- Support system (formal and informal);
- Care needs;
- Behavioral issues and interpersonal dynamics;

- Environmental conditions; and
- Financial means and capacity.

In addition to respectful, rapport-building conversation with the client, focused questions are asked to learn about the client's abilities, any limitations or special care needs, and to screen for maltreatment. Obtaining data from collaterals, such as family members and care providers, helps in determining client abilities and needs and if maltreatment is occurring. Screening tools, such as interviewing, interacting with, and observing the client, and standardized client assessments conducted within the program are also important.

Case investigations begin within 3 working days. Generally, the investigation phase of the case is completed within 30 days and most cases are closed within 90 days.

DISPOSITIONS

Nevada APS uses preponderance as the standard of evidence to substantiate allegations. Per APS Social Worker Clinical Manual,

To substantiate an allegation, there must be reasonable cause to believe that it occurred. In some investigations, an abundance of convincing evidence is collected that supports an allegation. However, as long as enough credible evidence exists to conclude that the incident probably occurred, it is substantiated because the "preponderance of evidence" standard is used in NV APS decision-making. That is, if more than half of the credible information indicates that the allegation is valid, it is substantiated. If the majority of credible evidence indicates that the allegation is not valid, it is not substantiated.

APS investigations are either substantiated or unsubstantiated as explained above.

APS program communicate the results of APS investigations to reporters, if the reporter is an employee of ADSD through a brief memo stating the case is closed and whether or not the allegation(s) was substantiated. APS communicates the results of investigations with alleged victims. In certain circumstances, other involved parties may be notified.

APS case investigations may lead to a referral being made to outside agencies. APS Investigators make referrals to the Bureau of Health Care Quality and Compliance (BHCQC) to report regulatory issues, and to law enforcement as soon as the APS Investigator suspects a crime has been committed. APS Investigators may also make referrals to state licensing boards. Nevada does not have an abuse registry.

POST-INVESTIGATIVE SERVICES

AUTHORITY

ADSD has the authority to provide protective services to vulnerable adults willing and able to accept them; regardless of whether the allegation is substantiated or unsubstantiated. The case is closed after the plan has been successfully implemented or if a client with capacity refuses services. Victims who have capacity retain the right to refuse any service, treatment, intervention, or referral offered by APS.

APPROACH

ADSD has access to emergency funds to assist APS clients in emergency situations. The emergency funds are used to ease or reduce an abusive or neglectful situation that places a client at risk and are used as a last resort.

As noted in the APS Social Worker Clinical Manual, there are four guiding principles that apply to planning intervention with clients. These are based on APS ethics:

- *Least restrictive alternatives possible means utilizing settings, programs, and courses of action that put as few limits as possible on the rights and individual freedoms of clients (e.g., community-based services rather than institutionally-based services) while meeting care and support needs.*
- *Person-centered principles and service delivery refers to an orientation that considers an adult's needs, goals, preferences, cultural traditions, family situation, and values. Services and supports are delivered from the perspective of the individual receiving the care.*
- *Trauma-informed approach means that, because abuse often has a traumatizing effect on victims, it is important to apply principles of trauma-informed care in order to facilitate a respectful, sensitive approach to assisting clients, starting with the APS assessment. There are six key elements of a trauma-informed approach: safety; trustworthiness and transparency; collaboration and mutuality; peer support; empowerment and choice; and cultural, historical, and gender issues.*
- *Trauma-specific interventions refer to interventions that are tailored to meet the unique needs of each client and that client's experiences and needs.*

Usually, cases are closed within 90 days from the date the report was received. Cases opened longer need supervisory approval. Once the investigation is complete and the findings documented, the APS Investigator will work with client to develop a case plan.

QUALITY ASSURANCE

Paperless case files are maintained in the APS Database and all applicable documents are uploaded into the APS database.

All cases are subject to supervisory review at any given time. All APS Investigators collaborate with supervisors to complete reviews timely to avoid compromising ongoing case or investigations.

The APS Case File Review (CFR) Form are utilized for the reviews. Supervisory reviews are completed monthly for all APS Investigators. The Supervisor are responsible for selecting cases for review.

Supervisors email the APS Investigators the digital CFR form upon completion. APS Investigators email the supervisor the digital CFR form with completed responses and corrections noted within five (5) business days.

QA Staff complete random reviews of CFRs submitted by supervisors.

- QA Staff ensures that reviews submitted are completed accurately and consistently by each supervisor.
- QA Staff provide feedback regarding the application of APS policy through the random reviews.
- QA Staff notify supervisors when corrections requested on the CFR form need to be completed on a case by an APS Investigator.

New Hampshire

Name of Agency	Department of Health and Human Services
Name of Program	Adult Protective Services
Data Sources	New Hampshire APS Times Frames Policy New Hampshire APS Manual NAMRS Agency Component Data FFY2016 Report

CONTEXT

ADMINISTRATION

The New Hampshire Adult Protective Services program (APS) operates under Title 12 Chapter 161-F under sections 42-57 of the New Hampshire Revised Statutes and is run by the Bureau of Elderly and Adult Services (BEAS) and the New Hampshire Department of Health and Human Services. New Hampshire APS is a state-run program.

Adult protective service workers (APSW) are employed by BEAS and by the New Hampshire Department of Administrative Services, Division of Personnel, to carry out all tasks and responsibilities defined in statute, administrative rule and program policy as they relate to the APS program.

All staff are state employees.

SCOPE

The purpose of the APS program is to obtain and investigate reports of abuse, neglect, self-neglect, or exploitation of vulnerable adults. New Hampshire only investigates allegations relating to a specific resident. APS investigates reports involving incapacitated adults who live in or are participating in homes/programs administered by or affiliated with the DHHS Bureaus of Behavioral Health and Developmental Services and incapacitated adults who are suspected to have been abused, neglected or exploited in their own homes by individuals paid to provide care, or while receiving care in a community, general or specialized hospital, rehabilitation center or other treatment center.

Vulnerable adult means a person aged 18 or older when the physical, mental, or emotional ability of the person means they are unable to manage personal, home, or financial affairs, in their own best interest, or they are unable to act or unable to delegate responsibility to a responsible caretaker or caregiver.

APS investigates the following maltreatment types: emotional abuse, physical abuse, sexual abuse, exploitation, neglect and self-neglect. Appendix B provides the definitions of the maltreatment types.

CONFIDENTIALITY

Information about the investigation shall be confidential, and shall only be released by BEAS:

1. When the investigation is in process, only information which is necessary for the receiving entity to carry out its statutory or regulatory mandates or service provision shall be released to the Department of Justice, other law enforcement officials or a court; the Health Facilities Administration; the Bureau of Behavioral Health; New Hampshire Hospital or Glencliff Home; the Bureau of Developmental Services; the Office of the Long-Term Care Ombudsman; the Board of Nursing; and agencies or individuals who provide services to the alleged victim.
2. When the investigation is completed and a determination has been made, information, if requested, shall be released to the victim and their guardian, if any, or, if the victim is deceased, the executor or administrator of the victim's will; the perpetrator and their guardian if any; the Department of Justice, a court-appointed attorney for the proposed ward or ward, or any other law enforcement officials; a court; the Board of Nursing and the Health Facilities Administration; the Bureau of Behavioral Health and the Bureau of Developmental Services; agencies or individuals who are, or who will be, participants in providing services to the victim; a family member or another individual who is petitioning for the appointment of a guardian for a victim; and employers as provided in RSA 161-F:49, VII.
3. When a disposition has been used, and when requested, information shall be released to the alleged victim and his or her guardian, if any, or, if the alleged victim is deceased, the executor or administrator of the alleged victim's will; alleged perpetrator and their guardian, if any, provided that the alleged perpetrator was contacted or interviewed; and the Department of Justice, other law enforcement officials, a court-appointed attorney for the proposed ward or ward, or a court.

Anonymous reports shall be accepted. The alleged victim shall be informed that a report of abuse, neglect, self-neglect, or exploitation has been received, except that the investigator shall not reveal the reporter's name.

GUIDING PRINCIPLES

Based on the extant materials, no information is available on if the APS program has a defined set of ethical principles or policies to ensure the program is held to high standards of integrity.

INTAKE

REPORTERS

Any person, including, but not limited to, physicians, other health care professionals, social workers, clergy, and law enforcement officials, suspecting or believing in good faith that any adult who is or who is suspected to be vulnerable has been subjected to abuse, neglect, self-neglect, or exploitation or is living in hazardous conditions shall report or cause a report to be made.

PRIORITIES

The APSW shall complete an initial face-to-face interview (including determination of vulnerability) and SDM® Safety Assessment with the alleged victim according to the priority level given by the supervisor. The timeframes linked with these priority levels are:

- Priority Level 1: Initial interview within 24 hours of assignment
- Priority Level 2: Initial interview within 72 hours of assignment

BEAS shall initiate a protective investigation as soon as possible, but no later than 72 hours following receipt of a protective report; and in cases of imminent danger, BEAS shall immediately initiate a protective investigation of the report and approve the authorization of protective services if necessary to protect the alleged victim.

INVESTIGATION

AUTHORITY

When the report is criminal in nature, and a criminal investigation will be directed by law enforcement, the department shall not perform or complete an investigation except if the alleged perpetrator is registry eligible, the investigator has determined that the alleged victim needs protective services, and/or the alleged perpetrator has an ongoing relationship with the alleged victim.

The investigator shall interview the alleged victim in person, regardless of their mental or physical condition, even if the alleged victim cannot communicate verbally. The investigator shall interview collateral contacts who have relevant information on the reported allegation(s). Collateral contacts include the individuals whom the alleged victim or the alleged perpetrator, if any, have identified as having information, and other individuals who have come to the investigator's attention as having information regarding the allegations(s).

In the guardianship process, the APS program shall provide information about the process to those who are filing for guardianship, and/or may petition for the appointment of a guardian for an incapacitated adult.

Alleged victims cannot refuse an investigation.

CASE INITIATION

When the report meets the criteria for starting a protective investigation, a protective report will be initiated. The APS staff worker that receives the report will notify the proper district office of the report. By the close of the 1st business day of the protective investigation the supervisor will assign the report a priority level as instructed in the SDM[®] Intake Assessment; and assign the report to an APSW.

CONDUCTING INVESTIGATION

The APSW will complete an initial face-to-face interview and SDM[®] Safety Assessment with the alleged victim according to the priority level given by the supervisor, and document within 24 hours of the initial interview. If necessary, the APSW has 5 additional business days to perform a second face-to-face interview.

Regardless of whether the report is founded or not, the investigator shall determine that there is a need for protective services if the victim's health or safety is in jeopardy, the victim's living arrangement is unsafe, or the victim has functional or cognitive limitations that prevent the necessary performance of personal care activities or household tasks.

The APSW will complete interviews with collateral contacts and alleged perpetrator(s); gather, review, and document additional information; make a determination and a preliminary finding; and complete an SDM[®] Risk Assessment by the close of the 18th business day of the protective investigation. They will submit a draft report and completed SDM[®] Risk Assessment to their supervisor by the close of the 20th business day. The supervisor will review the report for completeness and return the report to the APSW with comments, revisions, and further instruction if needed by the close of the 22nd business day. The APSW will make the outlined corrections and return the final report to their supervisor by the close of the 24th business day. The supervisor will give final approval of the report by the close of the 26th business day. All protective investigations shall be completed within 30 business days of the receipt of the initial report, excluding registry-bound cases, and notification will be sent to the alleged victim and their guardian, if any; the alleged perpetrator, if any, and their guardian, if any; and all other notifications as required.

Based on the extant materials, no information is available on if professionals and organizations, such as banks and health care providers, are required to provide APS staff access to records.

DISPOSITIONS

The standard of evidence is preponderance.

The alleged victim and guardian (if applicable) shall be informed at the end of the investigation about the investigation results. Also at the end of the investigation, the alleged perpetrator and

their guardian (if any) will be notified about the investigation results, including information about due process. Upon completion of an investigation resulting in a founded, unfounded, or investigation not completed disposition, the investigator shall notify:

- *The alleged victim and his or her guardian, if any;*
- *The alleged perpetrator, if any, and his or her guardian, if any;*
- *The probate court, if the alleged perpetrator is the guardian of the alleged victim;*
- *The department's office of client and legal services, if the alleged perpetrator is a public guardian of the alleged victim;*
- *The facility administrator, or an agency director, if the alleged victim was a resident of a facility or a recipient of services at the time of the alleged abuse, neglect or exploitation;*
- *The board of nursing, if the alleged perpetrator is licensed through the board;*
- *The bureau of developmental services and the bureau of behavioral health, if the alleged victim is a client receiving services from either or both bureaus, or was a client receiving bureau services at the time of the alleged abuse, neglect, or exploitation;*
- *The department's health facilities administration when that bureau has jurisdiction over the facility in which the alleged perpetrator is or was employed;*
- *A home health agency or another agency, if the agency is or was providing services to the alleged victim, and the agency employs or did employ the alleged perpetrator at the time of the alleged abuse, neglect or exploitation; and*
- *The department of justice, if the report was received from law enforcement officials.*

Possible dispositions include founded, unfounded, or investigation not completed.

The BEAS State Registry is a database containing information on founded reports of abuse, neglect, or exploitation of incapacitated adults by a volunteer or paid caregiver, guardian, or agent acting under the authority of any Power of Attorney (POA) or any Durable Power of Attorney (DPOA) pursuant to RSA 161-F:49.

POST-INVESTIGATIVE SERVICES

AUTHORITY

When there is a need for protective services and the victim agrees to accept protective services, the APSW shall open a case in the APS program following a protective investigation.

Based on the extant materials, no information is available on if APS provides services perpetrators or family members.

APPROACH

Based on the extant materials, no information is available on policy about providing services in least restrictive environment, with a person-centered approach, or with a trauma-informed

approach; if the State budget includes funds for the APS program; or the timeliness of and other criteria for case closure.

QUALITY ASSURANCE

The supervisor will track the status of each protective investigation daily to assure APS protective investigation timeframes are being adhered to and accurately documented. The supervisor will keep the administrator informed of any deviation from these timeframes, and will keep a record of these communications in an APS investigation file. The supervisor or designee will organize all protective investigation forms and related communication in an APS investigation file for investigation documents. The APSW sends the report to their supervisor for comments, revisions, and final approval.

New Jersey

Name of Agency	Department of Human Services – Division of Aging Services
Name of Program	Adult Protective Services
Data Sources	NAMRS Agency Component Data FFY2020 Report 2016 New Jersey Revised APS Related Statutes New Jersey APS Flyer, General Intel

CONTEXT

ADMINISTRATION

N.J.S.A. 52:27D-406 through 426 establishes the New Jersey Adult Protective Services (APS) program. The New Jersey Department of Human Services, through the Division of Aging Services, administers the APS program through designated APS providers. These providers may be county-based non-profit agencies or governmental entities, such as Boards of Social Services or Area Agencies on Aging, that respond to reports of maltreatment of vulnerable adults who reside within the county’s jurisdiction.

SCOPE

The APS program investigates allegations involving vulnerable adults. A vulnerable adult is defined as a person 18 years of age or older who resides in a community setting and who, because of a physical or mental illness, disability or deficiency, lacks sufficient understanding or capacity to make, communicate, or carry out decisions concerning his or her well-being and is the subject of abuse, neglect or exploitation. APS does not investigate provider facilities. The vulnerable adult must be in a “community setting,” which refers to a private residence or non-institutional setting.

APS investigates:

- *Abuse*
 - *Physical*
 - *Emotional*
 - *Sexual*
- *Exploitation*
 - *Financial*
 - *Other*
- *Neglect*

- *Self-neglect*

CONFIDENTIALITY

All records and communications are confidential. All third party information, together with the identity of reporters, witnesses and the adults allegedly in need of protective services, are confidential.

Information may be released only when:

1. The disclosure of information is necessary for adult protective services to perform its responsibilities; or
2. A court of competent jurisdiction orders disclosure.

GUIDING PRINCIPLES

The following principles guide the provision of adult protective services:

1. Each vulnerable adult's right to privacy shall be respected;
2. In planning for and providing adult protective services, every effort shall be made to determine and respect the vulnerable adult's wishes and preferences regarding the outcome of his or her situation;
3. The least restrictive alternative to meet the vulnerable adult's needs shall guide service provision;
4. All services shall be provided on a voluntary basis unless ordered by a court; and
5. Petitions to the court for involuntary service provision shall only be filed after all voluntary alternatives for protection have been explored.

INTAKE

REPORTERS

A person who has reasonable cause to believe that a vulnerable adult is the subject of abuse, neglect or exploitation may report the information to the adult protective services provider. The reporter's identity is kept confidential. Anonymous reports may also be accepted by the county adult protective services provider.

The following are mandated reporters: health care professionals, law enforcement officers, firefighters, paramedics or emergency medical technicians who have reasonable cause to believe that a vulnerable adult is the subject of abuse, neglect or exploitation. These individuals must report that information to the county adult protective services provider.

The APS Act provides protections against discriminatory or retaliatory actions against persons who report or provide information concerning the maltreatment of a vulnerable adult to APS.

PRIORITIES

If a report meets all criteria for an evaluation and the situation involves a clear and substantial risk of death or imminent physical harm to the adult, an evaluation is conducted as quickly as possible. In such situations, APS staff will secure whatever services are necessary and available to alleviate the emergency and to stabilize the situation. In some cases, these services may be provided prior to, or simultaneously with, the initial face-to-face contact with the vulnerable adult.

In all other “screened in” situations, cases are assigned within one working day for evaluation. The initial face-to-face contacts are attempted by the APS worker within three working days of the case assignment date.

INVESTIGATION

AUTHORITY

If a determination is made by the adult protective services provider that there is reasonable cause to believe that the vulnerable adult has been the subject of abuse, neglect or exploitation, the adult protective services provider determines the need for protective services. If the vulnerable adult or his or her legal guardian consents, the adult protective services provider may provide or arrange for appropriate protective services, as may be available.

If the adult protective services provider is prevented from conducting an evaluation of a report of abuse, neglect or exploitation, the adult protective services provider may petition a court of competent jurisdiction for an order to conduct the evaluation. The adult protective services provider will coordinate with law enforcement and other agencies as needed.

When the vulnerable adult appears unable or is refusing to consent to services and where it is clear that he/she will incur a substantial risk of death or immediate physical harm in the absence of services, the adult protective services provider may utilize the provisions available under the law to petition a court of competent jurisdiction to order appropriate services. In some cases, this may include the petition for guardianship or conservatorship.

Access to records

Records of public agencies, private organizations, banks and other financial institutions, medical institutions and practitioners, which the county adult protective services supervisor or his or her designee reasonably believes to be necessary to complete the evaluation, shall be made available to the county adult protective services provider at no cost.

The county adult protective services provider shall make a reasonable effort to access records prior to petitioning the court. If the adult protective services provider is not successful in accessing the necessary records, the adult protective services provider may petition the court for an order to access the needed information.

CASE INITIATION

Within 72 business hours of receiving a report that a vulnerable adult is being or has been subjected to maltreatment, the county adult protective services provider initiates a prompt and thorough evaluation of the report.

Reports meeting all criteria that involve a clear and substantial risk of death or imminent physical harm to the adult are evaluated by APS staff as quickly as possible.

All other “screened in” reports are assigned within one working day for evaluation. The initial face-to-face contacts are attempted by the APS worker within three working days of the case assignment date.

CONDUCTING INVESTIGATION

An unannounced face-to-face contact with the adult is attempted by the APS worker within three working days of assignment. During the home visit, the APS worker initiates a comprehensive assessment. The evaluation is based upon a personal visit with the vulnerable adult and upon consultation with others who have knowledge of the particular case to determine whether protective services are needed and what action, if any, is required.

While the assessment may be completed at the initial home visit, there may be a need to include one or more subsequent interviews with the adult, dependent on the circumstances of the case. The evaluation includes separate face-to-face contacts with the vulnerable adult and the alleged perpetrator, if applicable and when appropriate, and may include a review of social, medical, and financial records, consultation with family members, medical professionals with knowledge of the individual’s condition, involved agencies, or other parties who have knowledge of the individual’s situation.

APS must investigate and make a determination regarding the substantiation of the report within 30 days of the first face-to-face contact with the vulnerable adult.

DISPOSITIONS

APS evaluations contain sufficient information to allow the adult protective services worker to determine whether or not the report is substantiated. A report is substantiated when the preponderance of evidence supports the allegation.

A caretaker or other person who is believed to have committed a criminal act against a vulnerable adult will immediately be reported to the local law enforcement official or the prosecutor of the county.

When APS staff determines that a person is a vulnerable adult and in need of protection, the APS worker initiates and/or arranges for those services appropriate and available to the situation. The purpose of APS case management is to minimize or eliminate the risk that the client is experiencing and to stabilize his/her situation. Typically, APS case management is short term.

The assigned APS worker formulates and follows through with a care plan, which describes the interventions required for the vulnerable adult's situation and monitors the services that are currently in place or will be provided by APS or arranged through other resources. The APS worker determines the type, extent, and duration of services based on the circumstances of the situation. The care plan is reviewed on an ongoing basis and, if necessary, modified as additional or changing information becomes known to the APS staff or as the vulnerable adult's circumstances change.

New Jersey also maintains a central registry for the receipt and maintenance of all reports of suspected abuse, neglect and exploitation of vulnerable adults; however, it does not track person-specific data on persons found to be perpetrators.

All records and communications pertaining to any report, evaluation, or service provided are confidential, including the results of an investigation.

POST-INVESTIGATIVE SERVICES

AUTHORITY

APS is not authorized to require adults to accept services if the adult has the capacity to refuse. APS does not provide or purchase community services. When the vulnerable adult is no longer in need of protection, the APS worker offers to link the vulnerable adult to available community resources and services that best meet the needs and circumstances. Adult protective services providers may refer individuals who need specialized care, treatment or services to the appropriate agencies.

Adult protective services providers may not directly provide formal financial management services for individuals. However, providers may refer individuals for such services, as identified in the adult's evaluation, if such services are available from legitimate entities.

APPROACH

The responsibility of adult protective services is to the vulnerable adult. In the ideal situation, the protection of the vulnerable adult requires providing for his/her safety in the least

restrictive setting, while simultaneously respecting his/her right to self-determination. In some cases, a court may order a vulnerable adult to make payments for protective services from his/her own estate.

When interests conflict, the vulnerable adult is the person the adult protective services provider is charged to serve. Concerns of the other interested parties (i.e., family members, community, landlords, agencies, etc.) are understandable, but the individual has the right to make his/her decisions unless: 1) a surrogate decision maker is in place and the person lacks the capacity to make a particular decision; or 2) the person is declared incompetent by a court.

Other parties, or even the APS worker, may not agree with the adult's choices and may offer alternatives, but the competent adult's right to choose must be respected.

New Jersey APS offers crisis intervention (short-term involvement), but there is no defined time for case closure. A case will be closed when the decision is made that the vulnerable adult no longer needs protective services.

QUALITY ASSURANCE

The Department of Human Services delegates the responsibility for implementing, monitoring, and supervising the Adult Protective Services Program to the Division of Aging Services. The Division's APS Statewide Coordinator evaluates each county adult protective services provider as needed, but at least annually, in order to assess program effectiveness and compliance with the requirements.

The evaluation of county adult protective services providers is ongoing and comprehensive. It consists of site visits, review of records, contact with other agencies, and interviews with county adult protective services staff. The evaluation identifies the provider's ability to render required services, identify strengths and weaknesses, and delineates any program improvements necessary to ensure a high quality of service provision.

Each county adult protective services supervisor ensures that APS staff meet the required qualifications. The adult protective services supervisor provides guidance for and oversight of all facets of the county APS program operations including case assignment, case troubleshooting and reviewing APS care plans and case records. When necessary, the adult protective services supervisor accompanies the adult protective services worker on field visits to provide consultation.

Training

All APS workers are required to complete a core curriculum of basic knowledge and skills training. This training consists of at least 90 classroom hours and is offered at least annually to new staff assigned to the program. A minimum of 18 hours of supervisory training is offered annually to county adult protective services supervisors to support the supervisor role

in ensuring service quality. The training needs of adult protective services workers and supervisors are evaluated annually to identify areas needing further development.

Complaints

The APS Statewide Coordinator responds to complaints referred about the functioning of the APS program. In addition, county adult protective services providers may be contacted to respond to complaints about the county adult protective services programs.

The Department of Human Services reports annually to the Governor and the Legislature on the effectiveness of the Adult Protective Services Act and makes recommendations for the prevention and alleviation of the abuse, neglect and exploitation of vulnerable adults.

New Mexico

Name of Agency	New Mexico Aging and Long-term Services Department
Name of Program	Adult Protective Services
Data Sources	New Mexico APS Manual NAMRS Agency Component Data FFY2020 Report

CONTEXT

ADMINISTRATION

TITLE 8, Chapter, Part 3 of the New Mexico Annotated Code establishes the New Mexico APS program. The program is located in the New Mexico Aging and Long-term Services Department (the state unit on aging) and is a state-administered program.

SCOPE

The APS program serves incapacitated or protected adults 18 years and older. Incapacitated adult is defined as:

Any adult with a mental, physical or developmental condition that substantially impairs the adult's ability to provide adequately for the adult's own care or protection.

New Mexico operates a statewide hotline responsible for taking all initial calls of abuse/neglect/exploitation. The intake report is sent to the APS screening supervisor who is responsible for screening the case in for investigation or out for closure of the intake, depending on whether the report meets APS criteria for investigation. The criteria for investigation are:

- *Any adult, age 18 or over, and*
- *Alleged to be abused, neglected or exploited, and*
- *Alleged incapacity or inability to self-protect, and*
- *Sufficient information to locate the alleged victim*

Only citizens and legal residents are eligible for protective services beyond the investigation. If the reported adult is not a citizen or legal resident of the United States, the case worker can only assist the individual to obtain services through referral to the appropriate consulate office or resources in the individual's country of residence.

APS does not investigate allegations in residential care communities, and/or nursing homes unless the alleged perpetrator is from outside of the facility. The New Mexico Department of Health handles facility investigations involving staff.

APS investigates financial exploitation, neglect, physical abuse, and self-neglect. Appendix B provides the definitions for the types of maltreatment.

CONFIDENTIALITY

Investigations completed by the department are confidential and are only released as allowed for by NMSA 1978 section 27-7-9.

The information obtained during an investigation is confidential and may be released only to parties by court order, or that fall into an exception as specified in NMSA 1978 section 27-7-9.

GUIDING PRINCIPLES

Based on the extant material, no information is available on whether the program has a set of defined ethical principles or policies to ensure that the program is held to high standards.

INTAKE

REPORTERS

State law requires that any person, including financial institutions, who have reasonable cause to believe that an incapacitated adult is being abused, neglected or exploited make a report to APS.

The identity of the reporter is confidential unless the information is required to be released by court order.

PRIORITIES

There are three priority levels for reports of abuse, neglect and exploitation:

Emergency—A face to face contact with the alleged victim no later than 3 hours after the case has been received by the screening supervisor. An emergency referral is assigned immediately.

Priority One—A face to face contact with the alleged victim no later than 24 hours after the case has been received by the screening supervisor. A priority one referral is assigned immediately.

Priority Two—A face to face contact with the alleged victim no later than 5 calendar days after the case has been received by the screening supervisor. A

priority two referral is assigned no later than twenty-four hours from the time the referral is received.

INVESTIGATION

AUTHORITY

State law provides that APS caseworkers may have immediate access to the person alleged to be abused, neglected, or exploited and to their records in order to determine the accuracy of the report. If the alleged victim is believed to be at imminent risk of immediate harm, the worker must contact their supervisor. Law enforcement or a department attorney may be contacted to assist with obtaining access to the alleged victim.

An adult may request that the investigation be terminated. The case worker uses professional judgement to determine that the adult has the ability to consent. If the adult is deemed to have consent, then the investigation is closed. If the adult is determined not have the ability to consent, the case worker completes the investigation.

Based on the extant materials, no information is available on involuntary interventions.

CASE INITIATION

APS may notify the reporter whether or not the case has been accepted for investigation.

The case worker provides notice to the alleged victim and alleged perpetrator that an investigation has been initiated. Notification may be verbal or written. As part of the notification the case worker informs the alleged victim and alleged perpetrator that they are not required to participate in the investigation and that information obtained is confidential.

CONDUCTING INVESTIGATION

When a referral is accepted for an investigation, the case worker, in consultation with the supervisor, reviews the APS report and develops a strategy for conducting the investigation. The caseworker takes into account the required timeframe/prioritization, the allegations, location of the alleged victim and alleged perpetrator, any previous APS cases, additional individuals to interview, need for law enforcement involvement, and any safety concerns that might exist for the case worker.

To make a determination of the validity of the allegations, the case worker visits the residence of the alleged victim to assess their safety, and the condition of the home for health and safety hazards. At a minimum, the APS case worker must interview the following:

- Alleged adult victim
- Alleged perpetrator
- Necessary collateral contacts

During the course of the investigation the caseworker completes a Risk Assessment and a Functional Assessment of the alleged victim. The case worker collects and considers information from a variety of sources, including interviews, observations, evaluations and examinations to complete the assessments. A Financial Assessment form is completed on investigations involving exploitation and eligibility determination for APS services. In addition, all income received by the alleged victim is considered as to whether the income is sufficient to meet the needs of the client.

Based on extant material, no information is available on the content of the Risk, Functional or Financial Assessments.

APS case workers may only access records with documented consent, utilizing a signed release of information form, from the alleged victim.

APS must complete an investigation in 45 days.

DISPOSITIONS

The standard of evidence for determining the finding of an investigation is credible evidence.

Credible evidence includes:

- *Caregiver admission*
- *Physical facts/evidence*
- *Collateral and/or witness statements or observations*
- *Adult disclosure; or*
- *Investigative case worker observation*

The investigation determinations are Substantiated and Unsubstantiated. The definitions for each are:

Substantiated—based on credible information collected and assessed by the APS case worker during the investigation, the preponderance of reliable evidence obtained from the investigation supports the determination that the incapacitated adult was abused, neglected or exploited. In situations of self-neglect, a determination to substantiate means that, while the adult is legally competent to make choices, due to functional physical or mental impairment, the individual is unable or unwilling, to meet his or her basic care needs and protect himself or herself from harm. The case worker conducts an "assessment" that the incapacitated adult is not managing the essential activities necessary to maintain

minimal health and safety. While the allegation is substantiated in the record, no determination letter is sent.

Unsubstantiated—the information collected during the investigation does not support the finding that the adult was abused, neglected, or exploited.

The Employee Abuse Registry Act, (EAR Act) applies to a broad range of New Mexico providers of health care and services and employees of these providers who are not licensed health care professionals or certified nurse aides.

APS investigates allegations of employees of a provider who are not licensed or under contract with the New Mexico Department of Health. The investigation determination of these cases are:

- Unsubstantiated
- Substantiated
- Substantiated registry-referred

If the determination of the case is substantiated, a determination of the severity of the abuse, neglect or exploitation is made. Severity is determined by assessing the impact of the substantiated abuse, neglect, or exploitation on the adult, and by assessing the employee for aggravating factors. The severity definitions are:

Abuse—A substantiated complaint of abuse meets the severity standard if:

- *Over a significant time period; the abuse results in, or is a contributing factor to, death*
- *The abuse results in the infliction of a significant, identifiable physical injury that reasonably requires or results in medical or behavioral intervention or treatment*
- *The abuse results in any injury for which criminal charges are brought against the employee resulting in a plea or conviction*
- *The abuse results in the infliction of excruciating pain or pain that endures*
- *The abuse causes significant mental anguish as evidenced by the victim's descriptions, or significant behavioral changes*
- *The abuse is sexual abuse; or*

- *The abuse is verbal abuse that causes significant mental anguish, including psychological or emotional damage, and which is evidenced by significant behavioral changes or physical symptoms*

Neglect—A substantiated complaint of neglect meets the severity standard if:

- *The neglect results in, or is a contributing factor to, death*
- *The neglect results in the infliction of a significant, identifiable physical injury that reasonably requires or results in medical or behavioral intervention or treatment*
- *The neglect results in any injury for which criminal charges are brought against the employee resulting in a plea or conviction*
- *The neglect results in the infliction of excruciating pain or pain that endures over a significant time period; or,*
- *The neglect causes significant mental anguish as evidenced by the victim's descriptions, or significant behavioral changes*

Exploitation—A substantiated complaint of exploitation meets the severity standard where unjust or improper use of the money or property belonging to the recipient of care or services results in:

- *A single instance of an objectively quantifiable loss, the value of which exceeds the lesser of either: twenty-five dollars (\$25); or*
- *Twenty five percent (25%) of the monthly income available to the recipient of care or services for purchasing personal items or discretionary spending; or*
- *A subjectively substantial loss to the recipient of care or services due to a special attachment to the property, as demonstrated by anger, fear, frustration, depression or behavioral changes caused by the loss*

Aggravating factors. *A substantiated complaint of abuse, neglect or exploitation meets the severity standard requiring referral of the employee for placement on the registry where:*

- *The employee used alcohol or a controlled substance at or near the time of the substantiated abuse, neglect or exploitation; or*
- *The employee used, brandished or threatened to use, a weapon in connection with the substantiated abuse, neglect or exploitation*

A perpetrator is not placed on the registry until due process is completed.

POST-INVESTIGATIVE SERVICES

AUTHORITY

APS may provide services during the course of an investigation to ensure the alleged victim's safety. If the adult refuses services and there are indications that the adult lacks capacity, the case worker must consult their supervisor. All services are short-term and must be the least restrictive intervention needed.

Home care services may be used to maintain an adult at home who is having difficulty performing activities of daily living by providing light housekeeping chores and minimal transportation that help meet the basic care of the adult. Any client who has had a substantiated investigation of abuse/neglect/exploitation and meets the income and need criteria is eligible for services.

Criteria for Need Eligibility—The following criteria are used to determine need eligibility:

- *Due to a medically documented functional impairment, the adult requires assistance in maintaining residence in the least restrictive and safest setting to prevent or alleviate abuse, neglect or exploitation, or inappropriate and premature institutionalization; and*
- *Adequate help is not available from family, friends or other agencies; or*
- *The caregiver requires respite from the adult to prevent abuse and/or neglect.*

Health-Care Provider Statement—The health care provider documents the adult's functional status in the Health Care Provider Statement. The Department does not pay for the examination or the report. A new Health Care Provider Statement is required annually.

When short-term services are provided the case worker develops a service plan. The case worker makes a home visit with the client every 90 days at a minimum to review the service plan. The caseworker also reviews the service plan when:

- There is a change in case workers or home care workers
- A service plan time frame is completed
- There is a change of hours; and/or

- Services are no longer appropriate

Based on the extant material, no information is available on whether or not services are provided to family members or perpetrators.

APPROACH

Policy directs the case worker to consult with their supervisor to ensure least restrictive interventions are explored to ensure client safety.

During the course of the investigation, the case worker may arrange for evaluations/examinations to document injuries and determine what intervention is needed. The adult may give verbal consent for the evaluation. Types of evaluations include medical, psychological or a sexual abuse exam. If, in the professional opinion of the case worker, the adult requires emergency assistance and the adult refuses, the case worker may request the appropriate emergency response to ensure the adults safety. Limited funding is available to pay for any a psychological evaluation, adult day care services, attendant care services, and home care services. Prior to using state funding, the case worker must explore all other resources including private pay, health insurance or local resources.

Based on the extant materials, no information is available on timeframes or other criteria for overall case closure.

QUALITY ASSURANCE

The case worker and the supervisor meet at the completion of the investigation, but no later than forty-five days from assignment date. The information collected is reviewed to determine the investigation decision, substantiated or unsubstantiated, or to discuss the need for additional time to complete the investigation.

After the comprehensive assessment is completed and the investigative determination has been made, the supervisor and case worker staff the case for investigation closure. The need for additional services is discussed as well as what types of services the adult may be eligible to receive.

APS uses a case management system to document all case work activities.

An aggrieved person may request an administrative review of a decision made by the division regarding a substantiation of abuse, neglect or exploitation in accordance with the provisions set forth in this section. Administrative reviews are not available on any action that is currently or was previously the subject of a lawsuit. B. Requests for administrative reviews must be made in writing to the adult protective services division director within ten calendar days of receipt of the letter of substantiation. The division director or their designee, may reverse the substantiation any time

before the scheduled review. C. Notification of substantiation, request for administrative reviews and administrative review process. (1) Requests for administrative reviews must be made in writing to the adult protective services division director within ten calendar days of the receipt of the letter of substantiation. The division director or their designee may reverse the substantiation any time before the scheduled review. (2) Within 30 days of the receipt of the request for administrative review, the division notifies the aggrieved person requesting the administrative review of the time and date of the review, which may be no later than 60 days from the date of the request. (3) The person conducting the review shall be neutral and have no direct involvement with the investigation or substantiation

(4) The person conducting the administrative review issues a written decision within 30 days of the review, giving the reasons why the substantiation, by preponderance of evidence, is substantiated or reversed. The written decision is mailed to the aggrieved party and placed in the case record. (5) The decision by the person conducting the administrative review is final and non-appealable except as otherwise provided for by the law.

Based on the extant material, no information is available on quality assurance activities.

New York

Name of Agency Office of Children and Family Services/Bureau of Adult Services

Name of Program Adult Protective Services

Data Sources NYS SSL 473; NYCRR 457
 96 ADM-18 – PSA: Revised Process Standards
 Desk Guide – A Guideline to PSA
 New York Pub1307
 New York Making Referrals-Best Practices
 New York Seeking Orders-Best Practices
 NAMRS Agency Component Data FFY2020 Report

CONTEXT

ADMINISTRATION

ARTICLE 9-B of the New York State Codes and Statutes establishes the New York State Adult Protective Services (APS) program. The program is supervised by the Bureau of Adult Services in the Office of Children and Family Services. The program is administered through county social service departments. New York City resident’s services are provided through the Human Resource Administration in New York City.

SCOPE

Protective services are available to adults age 18 or older who have a physical or mental impairment and are unable to meet essential needs or protect oneself from harm and have no one available to responsibly assist the client.

Conditions which may contribute to a client’s impairment may include mental illness, developmental disabilities, chronic or acute physical illness, Alzheimer’s disease or other conditions associated with aging, physical handicaps, and alcohol or substance abuse.

The adult must be at risk due to one or more of the following circumstances:

- *Unable to perform essential daily living activities, such as tasks related to nutrition, personal hygiene and housekeeping.*
- *Unable to obtain needed benefits and services including SSI, Food Stamps (SNAP) and Medical Assistance, or failure to receive adequate food, clothing, shelter or medical care due to self-neglect or neglect by relatives or other caregivers.*

- *Defenseless against physical, mental or sexual abuse by another person, or vulnerable to financial exploitation or other criminal actions by others.*
- *Unable or unwilling to manage personal finances to pay for essential needs, or chronic squandering of limited resources.*
- *Conditions which present a serious or immediate threat to life, such as hazardous physical surroundings, self-endangering behaviors, untreated injuries or illness including hypothermia, dehydration and malnutrition. (P. 4 of Pub 1307)*

APS investigates abandonment, emotional abuse, exploitation (non-specific), financial exploitation, neglect, physical abuse, self-neglect, and sexual abuse. Appendix B provides definitions for maltreatment types.

CONFIDENTIALITY

APS investigations are confidential, including what is written in a service plan. Exceptions to the release of confidential information are outlined in NYS SSL 473-e and include the person who is the subject or their authorized representative; current or former provider of services when such disclosure is necessary to determine need for or provision of services; the court; grand jury; district attorney for use in a criminal or civil action before the court, or pursuit to criminal or civil action; court appointed evaluator or guardian; or any person considered entitled to such record in accordance with applicable law. .

GUIDING PRINCIPLES

APS has established three guiding principles for conducting APS activities:

1. Right to Self-Determination – An adult with decision making capacity has the right to exercise free choice in making decisions.
2. State’s Authority to Intervene – If an adult is incapable of decision making, the agency is obligated to seek services to protect the client’s safety.
3. Least Restrictive Alternative – Interventions must be provided at a minimum level to address the client’s needs.

APS has established four outcomes to help the program achieve their vision: safety, prevention, well-being, and organizational effectiveness.

To achieve these outcomes, we are committed to the following values:

- *All adults have the right to be safe and to live with dignity and with self-determination to the extent possible*
- *Delivery of services for adults must be individualized, culturally competent, and recognize and honor differences in traditions, heritage, values and beliefs*

- *Recognize that the interests of the adult client are the first concern of any service plan or intervention*
- *Accountability for actions and results, and data-informed decision-making*
- *We value the principles of partnership*
- *Everyone deserves respect*
- *Everyone needs to be heard*
- *Everyone has strengths*
- *Judgments can wait*
- *Partners share power*
- *Partnership is a process*

We know that in many cases the job of protecting vulnerable adults is too large and complex for Adult Services to accomplish alone, as many clients require services and benefits from more than one agency or provider. Therefore, we are committed to reaching out and encouraging our colleagues in other services areas and disciplines to participate in providing services to protect vulnerable adults in coordination with Adult Services, as part of a larger services delivery network (P. 10-11 of Making Referrals).

INTAKE

REPORTERS

There are no mandatory reporters in New York. NYS SSL 473-e and 18 NYCRR 457.16 address the requirement to protect the confidentiality of referral sources.

PRIORITIES

New York has established the requirement (18 NYCRR 457.1) for county social services departments to establish at the time of a referral whether or not a life-threatening situation exists. If such a circumstance is designated as such, the social services department must commence an investigation as soon as possible but no later than 24 hours after receipt of the referral.

INVESTIGATION

AUTHORITY

Clients with decision-making capacity have the right to refuse an investigation; however, if the client is at risk, an assessment is required to determine the client's decision-making capacity. If APS determines a client needs protective services but access is being denied, APS may file a petition in supreme or county court to obtain authorization to gain access and conduct an assessment. If approved, APS should work with law enforcement to conduct the assessment to determine level of risk to client and eligibility for services.

New York has established several involuntary interventions for clients that are determined to be in immediate and identifiable danger. Clients are unable to refuse these crisis intervention services if it's determined there is serious threat to their safety or well-being. These services include:

- 1) Crisis Interventions
 - a) Admission to a Psychiatric Facility—available to clients who are mentally ill and may cause harm to self or others.
 - b) Admission to a Developmental Center—available to clients with developmental disabilities and who have no one else to provide the necessary help.
 - c) Orders of Protection—court order of protection to control abusive or criminal acts between persons, including family.
- 2) Legal Procedures of Long-Term Consequence
 - a) Guardianship—supreme or county court may appoint a guardian to clients so incapacitated that supportive services are not sufficient to protect them.
 - b) Guardianship of the Mentally Disabled—guardianship specifically designed for developmentally disabled persons incapable of managing themselves or their affairs.

CASE INITIATION

APS is required to act on referrals of life-threatening situations within 24 hours of receipt of the information. For other referrals, an investigation is begun within 72 hours and a home visit is made to the client within three working days of the referral.

CONDUCTING INVESTIGATION

When conducting a client assessment, the APS workers may contact the family, friends, neighbors and other community-based services to determine the client's ability to function independently.

The case record of each APS client shall include an APS assessment/services plan consisting of the following information:

- *Household composition*
- *Residence and living arrangements*
- *Income and resources*
- *Medical and mental limitations*
- *Identification of significant other persons such as family members and friends and their willingness and capability to assist the individual*

The assessment must be completed within 60 days of the referral date.

Based on the extant materials, no information is available on organizations being required to provide APS staff access to records.

DISPOSITIONS

The state does not reach a finding for an investigation.

In New York State, allegations of maltreatment are not substantiated or unsubstantiated. Accordingly, there is no standard of evidence for substantiating an allegation of maltreatment. Rather, if a category of maltreatment is considered a problem area, the basis for that determination is specified through the selection of one or more risks. For example, the presence of bed sores or other ulcerated sores (risk) may prompt neglect to be considered a problem area. Any risk so identified must be addressed by a service to mitigate the risk. (NAMRS submission)

Based on the extant materials, no information is available on the communication of the results of APS investigations, the categories and definitions of APS investigations, or the legal consequences for substantiated perpetrators.

POST-INVESTIGATIVE SERVICES

AUTHORITY

After APS investigates a referral there are several services available to the client, including:

- Counseling
- Case Management
- Advocacy
- Money Management
- Finding Alternative Living Arrangements

According to state law, a “perpetrator may be ordered to participate in a counseling or a substance abuse treatment program.”

Based on the extant materials, no information is available on the provision of services to family members.

Clients with decision-making capacity have the right to refuse services.

APPROACH

APS aims to provide services that are limited to the specific actions required to address the client's needs. Whenever possible, feasible voluntary service alternatives should be used if they meet the client's needs.

Client Characteristics provides a list of services that are common to what APS offers:

- *APS arranges for adequate food, clothing, shelter.*
- *APS arranges for medical care, Mental Health care (including substance abuse and domestic violence treatment).*
- *APS arranges for accessing and maintaining benefits (SNAP, MA, VA, etc.).*
- *APS arranges for correction of environmental hazards.*
- *APS arranges for formal or informal financial management.*
- *APS arranges for in-home care for ADL's (including transportation).*
- *APS arranges for other community resources as support (family, friends, other).*
- *APS arranges for hospitalization and payment if needed.*
- *APS arranges for higher level of care if needed.*

APS also offers the following:

- *APS arranges for coordination with other service providers.*
- *APS conducts regularly scheduled home visits.*
- *APS makes referrals to law enforcement and justice system and arrange for court involvement. (P. 5-6 of Making Referrals)*

The assessment and service plan must be completed within 60 days of the referral; however, final completion date is determined by the date of the supervisor's signature on the form.

QUALITY ASSURANCE

Supervisors must review and approve APS assessments/service plans within 60 days of the referral date.

Regulatory requirements (18 NYCRR 457.2) and policy (96-ADM-18) provide instruction and guidance on APS process standards including requirements for case record documentation.

An electronic data base is used to track all APS referrals, determinations, stages, services plans and notes. New York City manages APSNet for all APS work within the city, while the rest of state utilizes ASAP.net.

The Bureau of Adult Services conducts periodic case reviews using a standard criterion and provides written feedback to the county social services departments

North Carolina

Name of Agency	Department of Health and Human Services
Name of Program	Adult Protective Services
Data Sources	Adult Protective Services, Division of Aging and Adult Services Manual NAMRS Agency Component Data FFY2016 Report

CONTEXT

ADMINISTRATION

The North Carolina Adult Protective Services Program operates under Article 6, Chapter 108A of the North Carolina General Statutes. It is a county run program within the Division of Social Services in the Department of Health and Human Services. The statute authorizes county departments to provide protective services to adults with disabilities who are alleged to be abused, neglected or exploited. These services include receiving, screening and evaluating abuse reports.

SCOPE

APS provides protective services to adults with disabilities living in private homes, residential care facilities, state institutions or other types of living arrangements.

An adult with disability is any person 18 years of age or over or any lawfully emancipated minor who is present in the state of North Carolina and who is physically or mentally incapacitated due to mental retardation, cerebral palsy, epilepsy or autism; organic brain damage caused by advanced age or other physical degeneration in connection therewith; or due to conditions incurred at any age which are the result of accident, organic consumption or absorption of substances.

For APS to investigate reports, alleged reports of abuse, neglect and exploitation have already occurred. Appendix B provides definitions for maltreatment types.

CONFIDENTIALITY

APS regards information in investigations as confidential. However, there are several exceptions:

- *A client or representative can have access to review or obtain a copy of their information except when a) the agency is required by state or federal requirements to keep certain information confidential; b) the confidential*

information is from another agency; and c) when information would breach another's right to confidentiality.

- *Federal, state and county employees may have access to the case record for the purposes of monitoring, auditing, evaluating or facilitating the administration of other state and federal programs, provided that the need for the information is justifiable and that adequate safeguards are maintained to protect the information from re-disclosure.*
- *State Division of Aging and Adult Services personnel may have access to the case record for purposes of supervision and reporting.*
- *Other employees of the county department of social services may have access to client information for purposes of making referrals, supervision, consultation or determination of eligibility.*
- *Other county departments of social services may have access to client information to the extent necessary to facilitate the provision of a service requested by a referring county department of social services.*

In addition, client information can be disclosed if it is by court order or complies with other state and federal statutes and regulations.

Specific findings of the evaluation are also kept confidential unless it is revealed with the consent of the adult with disability or by court order, and when information is necessary to provide protective services or will help with a criminal investigation or prosecution of abuse, neglect or exploitation.

The identity of the reporter and of individuals who have knowledge of the situation are kept confidential unless the court requires that identities be revealed. In addition, the complainant's name and the names of individuals who have knowledge of the situation may be given verbally to 1) the Division of Health Services Regulation in order to carry out its investigation, and 2) the District Attorney's office and local law enforcement agencies to assist in prosecuting or conducting a criminal investigation of alleged abuse, neglect, or exploitation of an adult with disability.

GUIDING PRINCIPLES

APS employs the following basic principles:

- *The Right to Self-Determination: As long as adults can recognize the consequences of decisions they have made about their lives, their right to make those decisions must be respected. An adult with a disability has the right to make bad choices and poor decisions, to be eccentric, to live in a filthy environment, or to refuse medical treatment.*
- *Clients should be treated with Honesty, Caring and Respect*

- *Honesty means that you should be truthful with clients about who you are and why you are there. It may not mean telling everything you know, however. You may say that a referral was made by “someone who is concerned about you” rather than giving the reporter’s name, for example.*
- *Respect includes checking your practice for biases such as ageism, racism, and sexism. Are you treating older clients the same as you treat younger persons? (for example, not infantilizing or talking down to the older adult). Small courtesies, such as calling the client Ms. Smith instead of Sally, unless she invites you to use her first name, indicate respect for the client.*
- *The Least Restrictive Alternative should be used whenever possible: Protective services should be provided with as little disruption to the client’s life as possible. Whenever possible, clients should be helped to live in the environment of their choice. Even when out-of-home placement becomes necessary, the client should be placed in the least restrictive environment which meets his needs. What is least restrictive for any particular client may change over time and should be periodically reevaluated.*
- *Give Highest Priority to the Family and other informal Support Systems as Resources when appropriate: APS workers should think broadly about who constitutes the client’s “family.” Neighbors, friends, church members, etc. may be good resources, as well as blood relatives. Although family resources should be explored and used whenever possible, be sensitive to family conflicts. Placing the client with family members who do not want him is inappropriate. Families can be the problem, rather than the solution.*
- *Inadequate or Inappropriate Intervention can be more harmful than none at all: An example of this assumption is the self-neglecting client who is removed from a filthy environment, placed in a rest home, and dies shortly afterward.*
- *Protection of adults with disabilities is a shared community responsibility: It is essential that community agencies such as mental health, health departments, home health agencies and hospitals work together to improve the lives of adults with disabilities who have been abused, neglected or exploited. Cooperation is needed at every step of the APS Process, from reporting to evaluating to providing protective services. The county department social services should provide the leadership for community cooperation.*
- *The Emphasis in APS is always on the need for Protective Services rather than investigation of incidents: The APS worker’s primary concern is ensuring that protective services are provided to adults with disabilities who have been abused, neglected or exploited rather than determining whether a particular abusive incident occurred or punishing the perpetrator.*
- *The Client’s Confidentiality and Right to Privacy should always be respected: This includes both the legal and policy requirements for confidentiality and*

issues such as not intruding into areas of the client's life which may be interesting but not relevant to the APS evaluation.

INTAKE

REPORTERS

The statute requires that any person having reasonable cause to believe that an adult with disability is in need of protective services should report such information to the county director of the Department of Social Services.

The identity of the reporter is kept confidential unless the court requires that it be revealed. By statute, a person who makes an APS report or assists with an APS case are protected from civil or criminal liability, unless such person acted in bad faith or with a malicious purpose.

PRIORITIES

The statute requires that the county director shall initiate the evaluation:

- Immediately upon receipt of a complaint, if a complaint alleges danger of death in an emergency situation
- Within 24 hours if a complaint alleges danger of irreparable harm in an emergency
- Within 72 hours if a complaint does not allege danger of death or irreparable harm in an emergency

INVESTIGATION

AUTHORITY

The evaluation may be initiated without the consent of the adult with disability. Collateral contacts with persons knowledgeable about an adult with disability's situation may be made without the adult or caretaker's consent when such contacts are necessary to complete a protective service evaluation.

The statute requires that staff and physicians of local health departments, area mental health programs, and other public or private agencies shall cooperate fully with the county director of the Department of Social Services in carrying out his/her responsibilities under the law. This includes immediate accessible evaluations and in-home evaluations where the county director deems necessary.

If an adult with disability, who is capable of making responsible decisions, does not consent to the receipt of protective services, services will not be provided. Documentation will include the worker's explanation and offer of services and of the adult's refusal to accept services. The worker shall obtain from the adult a signed statement of his/her refusal of services.

The county director may petition the court to order the provision of emergency services to an adult with disability after finding there is reasonable cause to believe that:

- *They lack capacity to consent and is in need of protective services;*
- *An emergency exists; and*
- *No other person authorized by law or order to give consent for the adult with disability is available and willing to arrange for emergency services.*

An emergency is a situation where:

- *The adult with disability is in substantial danger of death or irreparable harm if protective services are not provided immediately;*
- *The adult with disability is unable to consent to services;*
- *No responsible, able, and willing caretaker is available to consent to emergency services; and*
- *There is insufficient time to utilize procedures for a regular order authorizing protective services.*

The court shall order only such emergency services as are necessary to remove the conditions creating the emergency. If such services will be needed for more than 14 days, the county director shall petition the court for extended services.

Emergency services are services necessary to maintain the person's vital functions and without which there is reasonable belief that the person would suffer irreparable harm or death. This may include taking physical custody of the disabled person.

CASE INITIATION

State law requires that the county director shall initiate the evaluation. The evaluation may be initiated without the consent of the adult with disability.

Based on extant materials, no information is available on who is required to be notified to initiate a case.

CONDUCTING INVESTIGATION

A systematic process implemented by county departments begins with receiving and screening reports of abuse and continues through the closing of the case. This process is referred to as The Family Assessment and Change Process.

State law requires that staff and physicians of local health departments, area mental health programs, and other public or private agencies cooperate fully with the county director in carrying out his/her responsibilities under the law. This includes immediate accessible evaluations and in-home evaluations where the county director deems necessary.

The county director has the authority to review and copy any and all records, related to the care and treatment of the adult with disability who is cared for by any individual, facility or agency acting as a caretaker. The county director has the authority to conduct an interview with the adult with disability with no other person's present.

State law requires that the county director initiate the evaluation.

An evaluation must include:

- The visit to the adult with disability. The worker will make as many visits as necessary to determine whether the adult is disabled; abused, neglected or exploited; and in need of protective services.
- Consultation with others who have knowledge of the facts of the situation, including individuals identified by the person making the report, as well as individuals mentioned by the adult with disability.
- Medical, psychological and/or psychiatric evaluations when necessary to determine whether the adult is disabled; abused, neglected or exploited; and in need of services; and to determine what services are needed.

The evaluation must determine:

- *Whether or not the adult is disabled.*
- *Whether or not the adult is abused, neglected or exploited.*
- *Whether or not the adult is in need of protective services.*
- *Whether or not the adult lacks the capacity to consent to protective services.*

The evaluation shall be completed within 30 days for allegations of abuse or neglect and within 45 days for allegations of exploitation.

DISPOSITIONS

Following completion of the evaluation, a determination will be made as to whether the report is substantiated. A report is substantiated when:

- *The adult is disabled.*
- *The adult is abused, neglected or exploited.*
- *The adult is in need of protective services.*

An evaluation is unsubstantiated if any one of these three conditions is not met.

State law requires that after completing the evaluation, the county director will notify the reporter of the alleged abuse. The notice may be oral or in writing and will include a statement of whether or not the report was substantiated and, if so, a statement that the agency is providing continued services and will not include specific findings of the evaluation.

Based on the extant materials , no information is available on legal consequences for substantiated perpetrators.

POST-INVESTIGATIVE SERVICES

AUTHORITY

State law requires that if the department, as determined by the county directory, believes an adult with disability is in need of protective services, the department will immediately provide or arrange for those services. The adult with disability must consent to receiving these services. If an adult with disability, who is capable of making responsible decisions, does not consent to the receipt of protective services, services will not be provided.

If an adult with disability consents to the receipt of protective services and the adult's caretaker refuses to allow the provision of such services, the department may petition the district court for an order enjoining the caretaker from interfering with the provision of protective services to the adult with disability.

Based on the extant materials, no information is available on whether services are provided to family members or perpetrators.

APPROACH

APS service plans for adults with disabilities are developed to minimize the abuse, neglect and/or exploitation and move the adult's situation toward stability. The plan should be client and family focused and contain function-oriented goals and be time-limited. A wide range of services should be considered, and protection should be thought of as a continuum ranging from a very protective plan, such as placement, to a less protective plan. Some basic principles in service planning include:

- Use of the least restrictive alternative
- Respect for the client 's right to self-determination
- Inadequate or inappropriate intervention is more harmful than none at all

A number of the basic principles listed above affect how APS provides services. This includes both the legal and policy requirements for confidentiality and issues such as not intruding into areas of the client's life which may be interesting but not relevant to the APS evaluation.

If the adult with disability needs protective services, the department will determine if she/he is capable of paying for such services. If the adult is capable of paying for services, she/he will reimburse the costs of providing the needed services. If she/he is not financially capable, such services shall be provided at no cost to the adult.

An APS case shall be completed within 30 days for allegations of abuse or neglect and within 45 days for allegations of exploitation.

QUALITY ASSURANCE

State law requires that the director will initiate all evaluations. Upon completion of the evaluations, the director will write a report of the case and whether she/he believes protective services are needed.

The written report will include the following information:

- The name, address, age, and condition of the adult;
- The allegations (the written report shall not include the identity of the person making the complaint); and
- The evaluation including the agency's findings and supporting documents (e.g. psychological, medical report); conclusions; and recommendations for action.

A separate record, or a separate section of an existing record, will contain information on protective services provided to an adult, including the following:

- The report of a need for protective services;
- The written report by the department (when the evaluation was conducted on a patient or resident of a facility or when evidence of abuse, neglect or exploitation was found);
- Any court documents about the case (petition, orders, etc.); and
- Other information relative to the evaluation of the report and the provision of protective services.

Based on the extant materials, no information is available on quality assurance activities.

North Dakota

Name of Agency	North Dakota Department of Human Services Aging Services Division
Name of Program	Vulnerable Adult Protective Services
Data Sources	North Dakota Department of Human Services Website, Aging Services NAMRS Agency Component Data FFY2016 Report

CONTEXT

ADMINISTRATION

CHAPTER 50-25.2 of the North Dakota Code establishes the Vulnerable Adult Protective Services Program. APS is developed, administered, and implemented by the state's Department of Human Services, Aging Services Division.

SCOPE

APS investigates reports of maltreatment for any "vulnerable adult age 18 and older or to minors emancipated by marriage with substantial mental or functional impairments affecting their health, safety or independence."

When a report is made about a provider, investigative procedures are contingent on the provider type.

The APS program investigates financial exploitation, but not other types of allegations in long-term facilities. The APS program investigates allegations, in cooperation with the Long-term Care Ombudsman program, in an assisted living facility.

Reports concerning qualified service providers:

If the case involves abuse, neglect or exploitation, a formal Vulnerable Adult Protective Services report will be initiated according to N.D.C.C. § 50- 25.2-03(4). Vulnerable Adult Protective Services workers will be responsible for independent review and follow up. HCBS Case Manager must also follow the critical incident reporting protocol as outlined in HCBS Policies and Procedures (525-05).

Reports concerning individual and agency adult foster care:

If a resident of an adult foster care facility is receiving Home and Community-Based Services (HCBS), the HCBS Case Manager has primary responsibility to resolve concerns

in collaboration with the licensing facility. If there is no HCBS Case Manager, the licensing worker has primary responsibility to resolve licensing or quality of care issues in collaboration with the Vulnerable Adult Protection Services worker and licensing facility. The intent is that the assessment be done in a cooperative manner with all interested parties. If the case involves abuse, neglect, or exploitation, a formal Vulnerable Adult Protective Services report will be initiated according to ND Century Code 50-25.2-03(4). The HCBS case manager will coordinate with the region's designated Vulnerable Adult Protection Services worker. HCBS Case Manager must also follow the critical incident reporting protocol as outlined in HCBS Policies and Procedures (525-05).

Reports concerning adults with developmental disabilities:

A report to the North Dakota Protection & Advocacy Project, if required by N.D.C.D. § 25-01.3-04, satisfies all reporting requirements of this chapter. The North Dakota Protection and Advocacy Project has responsibility to investigate allegations of abuse, neglect, or exploitation for individuals with developmental disabilities and adults suffering from a mental illness who are an in-patient or resident in a facility rendering care or treatment, even if the location of the person is unknown. As needed, the Vulnerable Adult Protective Services worker will collaborate with The North Dakota Protection and Advocacy Project.

APS investigates vulnerable adults subject to financial exploitation, neglect, self-neglect, physical abuse, sexual abuse, and emotional abuse. Appendix B provides the definitions of the maltreatment types.

CONFIDENTIALITY

Vulnerable Adult Protective Services follows confidentiality as outlined in N.D.C.C. All reports made under this chapter and all records and information obtained as a result of the reports are confidential. An individual making a report should be advised of the confidentiality of the report; however, the reporter should also be informed that the right to remain anonymous is not guaranteed, especially if the identity of the report is subject to disclosure by subpoena or court order. The individual making the report should also be informed of their immunity from liability and, if applicable, the prohibition against employer retaliation. Neither the State, nor the department may require any provider of legal assistance to reveal any information that is protected by the attorney-client privilege. While the worker may see the person as needing services, the worker may be legally mandated to report other aspects of the case. The legal mandate to report supersedes the right of confidentiality or the needs identified in a voluntary program. The worker must also be concerned with the health and safety needs of caregivers or other individuals. N.D.C.C. § 50-25.2-07.

There are a number of exceptions to confidentiality listed in policies including professionals such as physicians, law enforcement, public officials, courts, and researchers (when no identifiable information is provided).

Persons identified as “public officials” include: elected officials of a state, county, city, or school district (such as the governor, a senator or congressman, a state legislator, sheriff, county commissioner, or school board member); and persons appointed or hired to fill a statutorily derived role (such as police chief /police officer, county coroner, forensic medical examiner, etc.)

GUIDING PRINCIPLES

ND VAPS adheres to the Principles for APS developed by the National Adult Protective Services Association. The principles are as follows:

- Adults have the right to be safe.
- Adults retain all their civil and constitutional rights, i.e., the right to live their lives as they wish, manage their own finances, enter contracts, marry, etc. unless a court adjudicates otherwise.
- Adults have the right to make decisions that do not conform with societal norms if these decisions do not harm others.
- Adults have the right to accept or refuse services.

INTAKE

REPORTERS

State law requires mandatory reporting. The following individuals who may have knowledge of suspected maltreatment, or who observe a vulnerable adult being subjected to conditions or circumstances that may result in abuse or neglect must report the information to the department or to an appropriate law enforcement agency:

- Qualified individual (means any agent, investment adviser representative, or person who serves in a supervisory, compliance, or legal capacity for a broker-dealer or investment advisor)
- Clergy (NOTE: not required if knowledge is gained as a spiritual advisor)
- Addiction counselor
- Caregiver
- Chiropractor
- Family therapist
- Firefighter
- Hospital personnel

- Occupational therapist
- Optometrist
- Congregate care personnel
- Coroner
- Counselor
- Dental hygienist
- Dentist
- Law enforcement officer
- Marriage therapist
- Medical examiner
- Mental health professional
- Nurse
- Pharmacist
- Physical therapist
- Physician
- Podiatrist
- Social worker
- Emergency medical personnel
- Nursing home personnel
- Other professional

Mandatory reporters who willfully fail to report are guilty of an infraction. Additionally, individuals may be guilty of a Class B misdemeanor if a false report is filed or provides false information resulting in a report or referral. The individual may be guilty of a Class A misdemeanor if the report or referral is made to a law enforcement official.

Although the report or referral information is kept confidential, reporters are not guaranteed the right to remain anonymous, particularly if the identity of the report is subject to disclosure by subpoena or court order. The individual making the report does have immunity from liability.

Intake staff shall strive for consistency in all reports. Intake staff are responsible to:

- Make a screening determination on all reports within two (2) business days. If the report screening is delayed, a note detailing the reason should be included in the file in the designated web-based data collection system.
- Track the number of duplicate reports received on current investigations.
 - Investigation staff will be notified of all duplicate reports received.
- Take reports in the order received whether by phone, fax, online or email and utilize the shared inbox for accepting reports.
- Complete a welfare check if a report includes concerns of imminent harm or danger to self or others and screen the report in regardless of the results from law enforcement.

- Complete appropriate records requests and collateral contacts as needed. Information will be attached to a note in the designated web-based data collection system or secure drive once received. o All financial records requests will be given a 30 (30) day response time frame.
- Document follow-up attempts. All new reports, unless a duplicate report (one already open in investigation), must have at least two (2) documented attempts at follow-up.

PRIORITIES

The following levels must be used to determine priority of response:

- High Priority: The person is at urgent and significant risk of harm due to the severity of the alleged abuse, or due to the vulnerability or physical frailty, a worker shall make face-to-face contact within twenty-four (24) hours. If unable to make contact within that time frame, the worker shall contact law enforcement for assistance. o If a welfare check is completed by law enforcement, the report is screened in regardless of the result of the contact.
- Priority 1: The person is not in imminent danger or urgent risk or harm but alleged abuse is present or conditions exist that might reasonably result in abuse, a worker shall make face-to-face contact with the person no later than five (5) working days beginning the day after the receipt of the report.
- Priority 2: The person is not in imminent danger or urgent risk or harm but conditions exist that are of concern, a worker shall make face-to-face contact with the person no later than ten (10) working days beginning the day after the receipt of the report.

INVESTIGATION

AUTHORITY

Records and information obtained or generated as the result of a report or referral must be made available to the following upon request:

- *A physician*
- *Authorized staff of the Department or the Department's designee*
- *Law enforcement agencies, and other agencies investigating, evaluating, or assessing the report or providing adult protective services*
- *A vulnerable adult who is the subject of a report, if the identity of the person(s) reporting the alleged abuse, neglect, or exploitation is protected*

- *Public officials, and their authorized agents, who require the information in connection with the discharge of their official duties*
- *A court when it determines that the information is necessary for determination of an issue before the court*
- *A person engaged in a bona fide research or auditing purpose if no information identifying the subjects of a report or referral is made available to the research or auditor*
- *A guardian or legal representative of the vulnerable adult who is the subject of a report if the identity of individuals reporting under section 50-25.2-03 is protected and the guardian or legal representative is not suspected of abusing or neglecting the vulnerable adult*

If a person who is subject to abuse, neglect, or exploitation is unable to consent or accept services or if the caregiver refuses, vulnerable adult protective services may pursue any administrative, legal or other remedies authorized by law that are necessary and appropriate under the circumstances to protect the person and prevent further abuse or neglect. The state's attorney of the county in which the person resides shall assist the worker, upon request, in pursuing an appropriate remedy. Available remedies include: *The appointment of a guardian or a conservator;*

- *A restraining order or other court order necessary under the circumstances;*
- *The removal of an abusive or neglectful guardian or conservator and the appointment of a suitable person as a guardian or conservator;*
- *The provision of appropriate treatment;*
- *The criminal prosecution of the individual responsible for abuse or neglect; and*
- *Any other available administrative, legal, or other remedies on behalf of the vulnerable adult.*

CASE INITIATION

Aging Services Division or the department's designee may interview the person who is the subject of the report with or without notice to the caregiver or any other individual. An unannounced face-to-face home visit is considered the optimal environment. The worker should identify themselves and explain the purpose of the visit.

If the alleged vulnerable adult or the caregiver denies entry or does not consent to an evaluation or investigation, a search warrant may be issued by a magistrate pursuant to law upon a showing of probable cause to believe that abuse, neglect, or exploitation has occurred. A law enforcement officer may make a reasonable entry of the premises without a search warrant or consent of the alleged vulnerable adult or caregiver for the purpose of rendering assistance if the officer has probable cause to believe that the

delay of entry would cause the alleged vulnerable adult to be in imminent or serious physical injury or death.

Some circumstances may require collateral contacts to be sought for investigation. Collateral sources may include but not be limited to the following: law enforcement, medical professionals, relatives of the vulnerable adult, neighbors, other agencies and providers, the reporter, educators and state's attorneys. The vulnerable adult may need to sign an authorization to disclose information in order for information to be disclosed by these sources. The following policy information discusses collateral contacts:

Whenever possible, the worker should inform the vulnerable adult of his or her intent to contact collateral sources and obtain a signed authorization for disclosure of information for this purpose. Circumstances that may prohibit informing the vulnerable adult of intent to contact collateral sources include when there is reason to believe that a serious emergency exists that endangers the health and safety of the vulnerable adult; when the worker lacks sufficient information to evaluate the seriousness or appropriateness of the report or referral; and when the worker has attempted to inform the vulnerable adult, but because of impaired mental functioning, the adult may be unable to consent to such contacts and no guardian has been appointed. If the vulnerable adult is impaired and does not have a court appointed guardian, the worker is empowered to request collateral information in order to provide needed services for the vulnerable adult.

Documentation of contacts made:

- *When the initial attempt at face-to-face contact with the person is unsuccessful, two (2) more attempts will be made within a one (1) month timeframe.*
- *Any reason for delayed response shall be documented.*
- *Initial and subsequent attempts at contact shall begin immediately when the person becomes or is expected to become available.*
- *Following the two (2) unsuccessful attempts at contact, the worker may choose to send a letter requesting an appointment with the person who is the subject of the report.*
- *If attempts at contact remain unsuccessful, the worker shall close the case no later than thirty (30) working days after receipt of the report.*

VULNERABLE ADULT PROTECTIVE SERVICES POLICIES AND PROCEDURES Division 20 Service 690 Program 610 Chapter 01 North Dakota Department of Human Services

- *The worker shall document all attempts to contact.*
- *When the report originally appears to indicate a need for face-to-face contact but further assessment determines that a face-to-face contact is not required to resolve*

potential risk, the worker may provide telephone response and assistance. Reports appropriate for telephone response and assistance include those that:

- *Present heightened worker safety concerns and upon consultation, law enforcement directs not to respond;*
- *Present heightened worker safety due to the presence or report of environmental or infectious disease concerns and upon consultation, first responders, public health officials, or code enforcement directs not to respond;*
- *In which it is determined that responsible family member or other support is aware of the concerns and is working appropriately to address the concerns; or*
- *Are considered a chronic situation in which the worker has had a visit with the person in the past twenty (20) working days and determined intervention is unwanted or there is no resolution for the concern.*
- *In which the person has a case manager in place, and calls between the worker and the case manager can resolve the reporter's concerns.*
- *In which the person is hospitalized or institutionalized prior to the initial visit and the worker has determined that ongoing protective services are not required. If the person is hospitalized or institutionalized outside the area of service and requires ongoing protective services, the report shall be transferred to the appropriate entity for follow-up.*

Designated Vulnerable Adult Protection Services intake workers shall record intake information on the SFN 1610 Vulnerable Adult Protective Services Intake form and in the designated web-based data collection system to include, when available:

- *Demographic information of the person who is the subject of the report, such as name, gender, date of birth or approximate age, address, current location if different from permanent address, and phone number;*
- *The person's physical or cognitive limitations;*
- *The demographics of any identified legal representative of the person;*
- *The reporter's demographic information, unless the reporter requests anonymity, such as a name, phone number, address, relationship to vulnerable adult, and the reporter's employer;*
- *Primary reason for report such as allegations of abuse, neglect, self-neglect or exploitation;*
- *Safety concerns for the person who is the subject of the report;*
- *Safety concerns for the worker;*
- *Individuals living in the home with the person who is the subject of the report;*
- *The alleged perpetrator's information, such as name, gender, address, phone number, and relationship to the client (when abuse, neglect, or exploitation is alleged and if available); and*

- *If the SFN 1610 and assessment are not completed; a reason why must be noted.*

CONDUCTING INVESTIGATION

When the Aging Services Division investigates a report, they may have access to all records of the vulnerable adult, if the vulnerable adult, or the caregiver or legal representative of the adult has authorized access. The division is also granted access to records if the vulnerable adult, because of a substantial functional or mental impairment, is unable to authorize the department or the department's designee to have such access, does not have a legal guardian or other legal representative, and is an individual with respect to whom a report was received by the department or the department's designee, and/or if the vulnerable adult is unable to receive authorization to access records due to substantial functional or mental impairment.

Requirements for a systematic assessment include the following:

Full Assessment/Screened-In Intake – Require a home visit and completion of the assessment report and are conducted to:

- *Determine if criteria for vulnerability are met. Criteria for vulnerability include substantial mental or functional impairment or both.*
- *Determine if the person is in need of adult protective services or is in need of services to support or maintain independent living.*
- *Determine the person's functional abilities, mental abilities, capabilities and limitations.*
- *The worker should use the Vulnerable Adult Protective Services Risk Assessment form found in the web-based data collection system.*
- *Formulate, with the person and other supports a plan to meet those needs in the least restrictive environment.*
- *Evaluate the effectiveness of the plan and reassess needs as necessary.*

The assessment should include careful observation of the vulnerable adult's environment.

Areas to observe include:

- *Living Environment – Are there environmental factors that suggest the person may have difficulty maintaining independent living skills without assistance, i.e., spoiled food on the counters, excess garbage, urine odor, too hot, too cold, etc.?*
- *Support System – Are there family members or other supports in place to assist the person? Does the alleged perpetrator live in the home or have access to finances? Is a caregiver needed? Are there adequate formal/informal supports?*
- *Neighborhood – Does it appear safe? Are the buildings, sidewalks, etc., well maintained? Is public transportation available? Is there access to health care, shopping, religious, and social activities?*

- *Home – What is the general impression of the home? Is the access uncluttered? Does the home accommodate physical needs of the person?*

The physical evidence should also be observed. It is necessary to locate items that could be used to identify and describe incidences of abuse, neglect or exploitation made in the report. Physical evidence may include clothing worn by the person that contains blood, semen, other body fluids; clothing that is torn; weapons; photographs; and X-rays. The worker should not collect physical evidence – it should be left undisturbed until law enforcement can be called to collect it for possible criminal charges. Observations should be recorded on the Risk Assessment or in the documentation section of the web-based data collection system.

State policy does not require a specific amount of time for case closure.

DISPOSITIONS

Standard for Substantiation: The standard for indicating an allegation of abuse or neglect and maintaining an open case in order to provide protective services is the existence of relevant evidence that furnishes a reasonably sound factual basis for the decision. This means that there is enough credible evidence regarding whether an event has occurred or a factual situation exists that the decision makes sense when looked at objectively and it is reasonable to act upon that evidence. It is a lesser standard of evidence than the “preponderance of evidence” or “beyond a reasonable doubt” standards of evidence.

POST-INVESTIGATIVE SERVICES

AUTHORITY

APS provides services to alleged victims. Adult Protective Services are:

Remedial, social, legal, health, mental health, and referral services provided for the prevention, correction, or discontinuance of abuse or neglect which are necessary and appropriate under the circumstances to protect an abused or neglected vulnerable adult, ensure that the least restrictive alternative is provided, prevent further abuse or neglect, and promote self-care and independent living. The term includes the following services provided by the department or the department’s designee:

- *Receiving, evaluating, and assessing reports of alleged abuse or neglect;*
- *Arranging for and coordinating the provision of essential services;*
- *Providing case management and counseling for the purposes of planning and providing social and other services needed by vulnerable adults;*
- *Arranging for and coordinating the provision of other services, including financial management or assistance, legal assistance, and the services of domestic violence programs;*

- *Monitoring the delivery of services to vulnerable adults and making progress assessments; and*
- *Arranging for or providing, and coordinating, other services consistent with state law.*

Vulnerable Adult Protective Services may be denied if the person is:

- *Not an adult or a minor emancipated by marriage;*
- *Not vulnerable by program criteria;*
- *Not residing within the state of North Dakota;*
- *Already receiving sufficient services to prevent, correct, or discontinue abuse, neglect, exploitation, or self-neglect; the services are being provided in the least restrictive manner possible; and the services are promoting self-care and independent living;*
- *Receiving assistance from existing support systems who are willing to continue to assist;*
- *Residing on an Indian reservation and no cooperative agreement has been developed between the tribal government and the Department of Human Services; and/or*
- *Only in need of specific services (such as guardianship or conservatorship services) that are obtainable through other agencies.*

In providing services, state policy mandates that:

The Department is not responsible for the cost of providing services unless a law specifically provides for the provision of services and funding exists to provide the service. No vulnerable adult will be turned away from services due to financial reasons.

APPROACH

The APS worker must ensure that services are in the least restrictive alternative available that still meets the vulnerable adult's needs, and that the vulnerable adult has a right to representation through formal or informal channels.

Services may be discontinued through action of the Vulnerable Adult Protective Services worker or the person or their legal representative, as appropriate. The person will be involved in the process to the maximum degree possible.

The worker may initiate case closure when:

- *Reasonable attempts have been made, and with the help of appropriate collaterals, the worker has been unable to locate the person who is the subject of the report.*
- *The death of the person.*
 - *All deaths are considered sentinel events and must be reported through the SFN 53601 found on the Risk Management portal.*
- *The person is living in a licensed facility or otherwise receiving appropriate services.*

- *The case is transferred to another agency, such as domestic violence or Protection and Advocacy.*
- *The person has moved out of the state.*
- *Crisis intervention has successfully resolved current problems with no additional needs identified. The person who is the subject of the report may initiate activities to close the case with Vulnerable Adult Protective Services. These activities include:*
 - *They have refused contact – no full assessment was possible and there was insufficient information to pursue legal remedies.*
 - *They or the caregiver misrepresented their needs or willingness to participate.*
 - *They have withdrawn their request for services.*

QUALITY ASSURANCE

The following must be adhered to in regard to maintenance of file:

- *Vulnerable Adult Protective Service files and any supporting documentation will be maintained in the designated web-based data collection system or secure drive.*
- *Files made prior to the implementation of the web-based data collection system are to be maintained in a separate filing system and kept in a locked file cabinet.*
- *Destruction or storage of files will be conducted in accordance with the records management policy of the department consistent with Older Americans Act (OAA) requirements 650-25 State & Community Programs Funded Under the Older Americans Act Policies & Procedures Manual.*
- *Contract entities must follow the same procedures for confidentiality and maintenance of files. If the entity is no longer under contract with the department, records are property of the department and any existing physical records must be transferred to the Department of Human Services Aging Services Division. Access to the web-based data collection system will be terminated at contract ending.*
- *Community and Staff Training*
- *Aging Services Division, in cooperation with other agencies, shall conduct a public education program to identify and prevent abuse, neglect, and exploitation. The education program shall include:*
 - *Information regarding the laws governing the abuse, neglect, or exploitation of vulnerable adults;*
 - *Mandatory reporting;*
 - *The need for and availability of Vulnerable Adult Protective Services; and*
 - *Information for caregivers regarding services to alleviate the emotional, psychological, physical, or financial stress associated with the caregiver or vulnerable adult relationship.*

Aging Services Division, in cooperation with other agencies, shall institute a program of education and on-going training for staff, law enforcement agency staff, and other persons who provide Vulnerable Adult Protective Services. The training shall include:

- *The philosophy of the Vulnerable Adult Protective Services Program;*
- *State and Federal law;*
- *Department policies and procedures;*
- *Mandatory reporting;*
- *Evaluation and assessment;*
- *Legal remedies;*
- *Confidentiality; and*
- *Community resources.*

Quality assurance will be completed every quarter of the biennium; one region per quarter. QA staff will review five (5) open investigations and five (5) closed investigations for each staff member of the region. If a staff member has completed intakes, QA staff will review five (5) screened in and five (5) screened out intake; if available. QA will also be completed on intake staff in the biennium; five (5) screened in and five (5) screened out intakes

Ohio

Name of Agency	Ohio Department of Job and Family Services
Name of Program	Adult Protective Services
Data Sources	Adult Protective Services Protocol 2013 http://jfs.ohio.gov/ocf/aps.stm NAMRS Agency Component Data FFY2020 Report

CONTEXT

ADMINISTRATION

The Ohio Adult Protective Services (APS) program operates under sections [5101.60](#) to [5101.71](#) of the Ohio Revised Code. It is a county administered program, supervised at the state level by the Ohio Department of Job and Family Services (ODJFS). ODJFS develops programs and regulations pertaining to APS, and the county agencies receive and investigate reports and intervene to protect vulnerable adults. In some counties, the county departments of job and family services administers APS, while in others APS is contracted out to other county government offices, non-profit agencies, or a combination of the two. APS helps vulnerable adults age 60 and older who are in danger of harm, are unable to protect themselves, and may have no one to assist them.

SCOPE

APS investigates reports for a vulnerable adult age 60 and older who is handicapped by the infirmities of aging or who has a physical or mental impairment which prevent the person from providing for the person's own care or protection, and who resides in an independent living arrangement. In addition to a person's own home, an independent living arrangement could include a licensed adult care facility, but not a state facility in which a person resides as a result of voluntary, civil, or criminal commitment. Investigation of providers does occur if the client resides in one of these living arrangements. Some county agencies serve individuals age 18 - 59 through APS as well.

The APS program assesses the risk to the adult who is the subject of the report based on the following:

- The specific danger (abuse, neglect or exploitation) and the degree of danger (physical or sexual harm, mental anguish, or mental illness) in the adult's living conditions.
- The personal vulnerability of the adult, which may include one or more of the following conditions:

- Handicap due to infirmities of aging
- Physical and mental impairments preventing the adult from providing for his or her own care without the assistance of a caretaker.
- The adult's understanding of his or her current situation.
- The adult's feeling about his or her current living situation.
- The social vulnerability of the adult, which may include one or more of the following conditions:
 - The absence of a guardian, caretaker, spouse, adult children, next of kin or friends.
 - The unlawful or improper act of a caretaker using an adult or an adult's resources for monetary or personal benefit, profit or gain.
 - The failure or inability of a caretaker or the adult to provide goods or services necessary to avoid physical harm, mental anguish or mental illness.

The Ohio APS program investigates reports of physical, emotional, and sexual abuse; neglect; self-neglect and exploitation. See appendix B for definitions.

CONFIDENTIALITY

When making a report to APS, the reporter is asked for name, address and the relationship to the alleged adult victim, but can choose to remain anonymous. All APS reports and documentation are confidential. No provision in the law keeps reporter identities confidential.

GUIDING PRINCIPLES

The Ohio APS program operates according the following guiding principles:

- Adults have the right to be safe.
- Adults have the right to make decisions that do not conform with social norms, as long as they do not harm others.
- Adults retain all their civil and constitutional rights unless some of these rights have been restricted by court action.
- Adults are presumed to have decision-making capacity unless a court rules otherwise.
- Adults with cognitive capacity have the right to accept or refuse services.
- Adults who seem to lack cognitive capacity must be professionally evaluated. If a lack of capacity is confirmed, APS and the courts will take steps to protect the person from harm.

INTAKE

REPORTERS

Ohio state law requires mandatory reporting. If any of the following individuals has reason to believe that an adult is being abused, neglected, or exploited, or is in a condition which is the result of abuse, neglect, or exploitation, the individual must immediately report such belief to the county department of job and family services.

- Attorneys
- Physicians (including osteopathic physicians, podiatrists, chiropractors and dentists)
- Pharmacists
- Psychologists
- Nurses
- Dialysis Technicians
- Employees of an ambulatory health facility
- Employees of a home health agency
- Employees of a mental health agency
- Employees of hospitals
- Employees of an adult care facility
- Employees of a community alternative home
- Employees of a nursing home, residential care facility or home for the aging
- Senior service providers
- Peace officers
- Coroners
- Clergymen
- Employees of a community mental health facility
- Social workers or counselors
- Employees of outpatient health facilities
- Firefighters
- Employees of the health department
- Ambulance drivers
- First responders
- Building inspectors
- Certified public accountants registered in Ohio
- Ohio-licensed real estate agents or brokers
- Notaries public commissioned in Ohio
- Employees of banks, savings banks, savings and loan associations, or credit unions
- Investment advisers
- Financial planners
- Humane society agents

The county departments of job and family services are expected to work closely with these professionals to assure protection for adults in need; while mandatory reporters who fail to

carry out their reporting responsibilities under the law may be subject to a fine of not more than \$500. Employees of any hospital or public hospital licensed by the Ohio Department of Mental Health are not mandatory reporters.

PRIORITIES

Reports are prioritized into two categories:

- 1. Emergency reports—all abuse, neglect, and exploitation reports are deemed emergency if an adult is allegedly living in conditions which present substantial risk of immediate physical harm or death. The risk can be the result of the adult’s own actions or inflicted on the adult by another person. This type of report requires an investigation to be initiated within twenty-four hours.*
- 2. Non-emergency reports—all other abuse, neglect or exploitation reports that are accepted by the agency that have not been deemed an emergency. These reports require an investigation to be initiated within three working days.*

INVESTIGATION

AUTHORITY

If any person, including the adult who is the subject of the investigation, denies or obstructs access to the adult’s residence during the course of an investigation, the county department of job and family services may file a petition in court for a temporary restraining order to prevent interference or obstruction. If the court finds reasonable cause to believe that the adult is being or has been abused, neglected or exploited and that access to the person’s residence has been denied or obstructed, it will issue a temporary restraining order to prevent the interference or obstruction. After obtaining a restraining order, the APS representative may be accompanied to the residence by a peace officer.

The adult has the right to refuse the investigation. The APS agency may seek a court order to conduct investigation activities if there is reasonable cause to believe there is a substantial risk of immediate and irreparable physical or financial harm and the adult is incapacitated.

CASE INITIATION

Ohio state policy requires that written notice of intent to investigate must be given to the adult victim at the time of the initial interview in language reasonably understandable to him or her. If interpretation services are needed they must be made available. An investigation should include a face-to-face visit with the adult who is the subject of the report, ideally in his or her

own home without the interference of others. If such a face-to-face visit is not possible, the reason must be noted in the case record.

In some cases, county departments of job and family services are required to notify other agencies of reports of suspected abuse, neglect or exploitation.

If the report involves	The county must notify
An adult who is developmentally disabled	County board of developmental disabilities
An adult who lives in a long-term care facility	The regional or state long term care ombudsman
An adult who has allegedly been abused, neglected or exploited by staff employed at an adult care facility	The Ohio Department of Health
The safety or welfare of a child under the age of 18, or a developmentally disabled or physically impaired child under the age of 21	The local public children services agency

CONDUCTING INVESTIGATION

No provision in law requires APS access to financial or medical records.

In October, 2017, Ohio implemented a statewide comprehensive case management system for APS, which has an assessment framework that will be used by all APS agencies.

The investigation must be completed within 30 calendar days of the receipt of the report, or within 45 days when additional information is needed to determine a case disposition.

DISPOSITIONS

State policy regarding the standard of evidence for validating an allegation of maltreatment in an APS investigation is that it should have credible, reasonable, or probable cause.

APS investigations are either validated or not validated.

- *A validated (substantiated) report requires confirming evidence that substantiates or verifies the allegation of abuse/self-neglect/neglect/exploitation.*
- *A report is non-validated (unsubstantiated) if no evidence to verify or substantiate the allegation of abuse/self-neglect/neglect/exploitation is found.*

The APS program in Ohio communicates the results of APS investigations only to the adult victim and his or her legal representative. Neither the intake report nor the investigative report is a public record.

After completing the investigation, the county agency makes a determination whether or not the adult is at risk of harm and in need of protective services.

Based on the extant materials, no information is available on legal consequences for validated perpetrators in APS investigations.

POST-INVESTIGATIVE SERVICES

AUTHORITY

Any adult age 60 or older can request adult protective services, including caseworker services, medical care, mental health services, legal services, fiscal management, home health care, homemaker services, housing-related services, guardianship services, placement services, and the provision of such necessities as food, clothing and shelter. The county department of job and family services or designated agency must determine whether there is the need for protective services to provide or correct abuse, neglect or exploitation or the resulting conditions. The county department of job and family services or designated agency provides these services to the extent of available funds and/or resources.

A signature of the adult victim is required for the service plan. If the adult refuses to sign the plan, the reason should be documented in the case record, or the agency should petition the court for an order authorizing protective services to be provided. Clients may refuse services if they have capacity to do so. If an adult is found to be in need of protective services and incapacitated, the agency may petition the court for an order authorizing protective services. The petition must state the specific facts alleging the abuse, neglect or exploitation and must include a proposed protective plan.

Based on the extant materials, no information is available on whether services are provided to perpetrators or family members.

APPROACH

Ohio policy requires that the service plan offer services in the least restrictive setting available to meet the needs of the adult. At a minimum, it must include the following:

- Identified problem

- Protective services objective
- Type of protective services and the service provider(s)
- Effective dates of the protective service plan
- Signature of the adult

The APS program in Ohio is funded by the Social Services Block Grant (SSBG), as well as with Ohio General Revenue Funds. ODJFS distributes SSBG money to the county departments of job and family services. Some counties use these funds to provide and/or contract for homemaker, home health aide and day care services for adults, in addition to adult protective services. In addition, some counties may have APS levy funds available or funds from private and/or charitable agencies designated for APS services.

An APS case is terminated when any of the following circumstances occur:

- When requested by the adult who is the recipient of adult protective services.
- The adult no longer needs protective services.
- The adult leaves the agency's area of jurisdiction, in which case the county agency should make a referral to the new county or state of residence, if known.
- The adult victim is placed in an institution, unless the institutionalization is court-ordered.
- The adult dies.

QUALITY ASSURANCE

The Ohio Database for APS (ODAPS) is a web-based comprehensive case management system is a data collection system designed to document all APS case activities from receipt of referral through case closure. Information collected and documented in ODAPS includes: intakes (regardless of screening decision); assessments; investigation findings; case plans and service reviews; court activity; case notes; and case closure summaries. Client and perpetrator demographic information, living arrangements, and relationship status is maintained in the system, along with information on other household members and service providers.

ODJFS provides guidance and shares best practices with counties. Counties are able to utilize standardized reports in the system or create their own ad hoc reports. ODJFS offers APS training regionally through the Ohio Human Services Training System.

Several case activities (e.g., screening decisions, investigation findings, assessments, case services, case closure decisions, etc.) require supervisory approval in ODAPS.

Oklahoma

Name of Agency	Oklahoma Department of Human Services
Name of Program	Adult Protective Services
Data Sources	DHS Oklahoma Administrative Code APS Chapter 340 NAMRS Agency Component Data FFY2020 Report

CONTEXT

ADMINISTRATION

TITLE 43A, § 10-101 et seq., of the Oklahoma Statutes establishes the Oklahoma Adult Protective Services program. The APS unit resides in the Community Living, Aging and Protective Services division of the Oklahoma Department of Human Services. Oklahoma APS is a state-run program and is responsible for “program planning, staff training, technical assistance, quality assurance, and policy development.” APS district directors assist in this process by providing local support for APS staff.

SCOPE

People who are elderly are included in the population served by Oklahoma APS, if they meet vulnerability criteria. Oklahoma statute requires DHS to “perform certain activities for the protection of vulnerable adults who are alleged to be abused, neglected, exploited, or verbally abused.” The Oklahoma APS definition for vulnerable adults includes adults with disabilities.

Oklahoma defines vulnerable adult as any person 18 years of age or older

Who, because of physical or mental disability or other impairment, may be subject to maltreatment and is substantially impaired in his or her ability to independently: (A) provide adequately for his or her own care or custody; (B) manage his or her property and financial affairs effectively; (C) meet essential requirements for mental or physical health or safety; or (D) protect himself or herself from maltreatment without assistance. The vulnerable adult does not have to be eligible for disability benefits of any kind, or have a permanent impairment. The APS specialist determines if an adult is vulnerable based on their physical or mental condition at the time an APS referral is received and the APS specialist's assessment of that condition during service planning or investigation.

APS investigates allegations of maltreatment of vulnerable adults in any setting, including

Long term care nursing facilities, residential care facilities, assisted living facilities, group homes, private residential settings, shelters, and those who are homeless. APS also investigates provider agency employees including home health providers, adult day care centers, independent living centers, and residential care facilities.

When APS receives referrals that allege self-neglect or maltreatment for residents of residential care facilities, assisted living facilities, or nursing homes, and the alleged perpetrator is not a facility employee, APS accepts the referral but also notifies the Oklahoma State Department of Health (OSDH) Protective Health Services.

Oklahoma APS investigates allegations of maltreatment types that include physical abuse, sexual abuse, verbal abuse, neglect, self-neglect, abandonment, exploitation, personal degradation, and financial exploitation. Appendix B provides definitions of maltreatment types.

CONFIDENTIALITY

All APS records are confidential. They may be disclosed under a court order, and the APS specialist may disclose some information necessary to protect the alleged victim during investigation and service planning. Individuals acting in an official capacity regarding the vulnerable adult may receive case information, including a district attorney's office, attorney representing the vulnerable adult, law enforcement or medical examiner's office, APS staff in another state, health care professionals evaluating or treating the vulnerable adult, and appropriate DHS staff. Entities authorized by DHS to provide services and the vulnerable adult's caretaker, guardian, or next of kin may receive summary case information, and APS may approve release of limited information for research purposes.

The reporter's name is confidential, and APS records are confidential but they may be disclosed due to a court order.

GUIDING PRINCIPLES

APS specialists have ethical responsibilities provided in Oklahoma statute which guide all client-related contact. The APS specialist must contact the APS specialist IV or designee immediately if a client or the APS specialist is threatened or injured during the investigation. The APS specialist must not handle the vulnerable adult's financial resources, initiate services, or make after-hours home visits without prior approval by an APS specialist IV or designee. The APS specialist must not:

- solicit or accept gifts or compensation of any kind, or buy items from the vulnerable adult

- use contact with clients or their support system for personal gain, and may not make personal contact with them after the end of an assignment
- give medical diagnosis or legal opinions, and must give the client service options rather than referring them to a single service provider
- engage in employment or business interests that would be a conflict of interest or impair their ability to be impartial in carrying out their duties
- have sexual contact with clients, their relatives or members of their support system
- re-enter a secured residence without another specialist present or another person from outside of DHS, such as law enforcement or a nurse aide.

Oklahoma provides the following *Principles for APS*, with additional instructions to staff:

- *The vulnerable adult is the APS client. While outcomes desired by the person who reported the situation, family members, or other caretakers of the vulnerable adult are considered Adult Protective Services (APS) intervention and service planning are client-centered.*
- *APS respects the client's right to self-determination and approaches service planning and intervention with sensitivity to the client's perception of his or her situation and needs. An objective assessment of the circumstances and need for involvement is made.*
- *The APS specialist maintains professional objectivity when providing for or arranging services for vulnerable adults, whether services are paid for by the client or from private or public funds.*
- *Protective service plans are developed with the knowledge and approval of the client, when possible. When involuntary services are necessary to protect the life or estate of a client, guardianship is pursued with careful consideration of the effect on the client's psychological and emotional needs. Service planning focuses on services that meet the vulnerable adult's needs in the least intrusive and least restrictive manner possible.*

Instructions to staff

- *Adult Protective Services (APS) staff recognizes the complexity of family relationships, and approaches family caretaker issues with sensitivity and compassion.*

- *When the APS specialist determines that the adult recognizes and understands the consequences of his or her choices, the adult's decision is respected even when an allegation of maltreatment is substantiated.*
- *The APS specialist must consider if available resources offer a positive alternative to the current situation from the client's perspective, unless the situation is an emergency, and the client lacks decision-making capacity.*

INTAKE

REPORTERS

In Oklahoma, APS mandatory reporting law requires “any person having reasonable cause to believe that a vulnerable adult is suffering from abuse, neglect, or exploitation” to report it to DHS or local law enforcement. Anyone who knowingly or willfully fails to do so may be charged with a misdemeanor. While all people in Oklahoma are mandatory reporters, Oklahoma statute specifically names numerous select groups who have routine contact with vulnerable adults, including social workers, medical and mental health professionals, law enforcement, and long-term care and facility staff.

PRIORITIES

Reports of alleged abuse, neglect, or exploitation of a vulnerable adult require a prompt and thorough investigation. Allegations of self-neglect require prompt determination of risks and needs and thorough service planning.

Screen Out: The Review, Evaluate, and Decide (RED) Unit specialist or designee determines no additional action is needed from Adult Protective Services (APS).

Information and Referral: The RED Unit specialist or designee determines the alleged victim is not a vulnerable adult, or the vulnerable adult's risks can be addressed through information and referral to a more appropriate responder.—

Service Case: When the RED Unit specialist or designee determines from the intake information that the alleged victim is a vulnerable adult and the only allegation is self-neglect, the referral is assigned as a Service Case for prompt and thorough determination of risk, needs, a capacity decision, and service planning. When it is determined that temporary guardianship is needed, the Service Case will be elevated to an Investigation.

Investigation: The or designee determines the allegation of abuse, neglect, or exploitation of a vulnerable adult requires a prompt and thorough assessment, investigation, and service planning.

Guardianship: If it is determined that temporary guardianship is needed, the investigation will be elevated to guardianship

Oklahoma APS provides detailed guidance on circumstances that would categorize a report as an urgent situation that requires prompt action including the APS specialist initiating the investigation within 24 hours of receiving the report, or sooner at the discretion of the APS specialist IV or designee. Examples of urgent situations include when sexual abuse occurred within the last 72 hours; the AV needs total care and is left without a caregiver; the AV is punished or confined, such as locked in a closet or tied to a bed; or serious financial or resource loss would interfere with life-sustaining care or services.

Reports of maltreatment that are not categorized as urgent situations require the specialist to initiate the investigation as soon as possible within five working days of receiving the report, specifically not to exceed 120 business hours from the time of the report (excludes weekends and official holidays).

Long term care investigations are initiated by visiting the vulnerable adult in the nursing facility. Maltreatment reports are initiated within 20-business days or sooner when circumstances indicate immediate action is needed.

INVESTIGATION

AUTHORITY

The APS chapter of Oklahoma Administrative Code provides APS specialists guidance and authority to conduct investigations. Below is an abbreviated list of the expanded content that is provided in the Administrative Code on-line. All community APS investigations include items 1 through 10, and long-term care investigations include items 1 through 6, 9 and 10.

- (1) Notification of local law enforcement
- (2) Efforts to locate and notify the alleged victim's caretaker, guardian, and next of kin
- (3) Visits to and interviews with the vulnerable adult
- (4) Consultation with other people who have or are expected to have pertinent knowledge about the alleged victim's circumstances
- (5) Photographs or video recordings to document injuries or conditions in the adult's residential environment
- (6) Other relevant data and records
- (7) Determining the adult's decision-making capacity (Administrative Code provides detailed guidance for APS specialists)
- (8) Evaluation to determine the need for protective services
- (9) Completion of investigative report
- (10) Findings

(11) Follow-up, if needed

If the APS specialist is denied access to records, documentation, or other information needed in an investigation, DHS may seek a court order to allow access. If the APS specialist is denied entry or a caregiver denies access to the alleged victim, the APS specialist consults with the APS specialist IV or designee and may request law enforcement to assist in gaining access, obtain assistance from other persons who may be able to help gain access or seeks a court order to allow access. When a court grants an entry order, law enforcement is responsible for enforcing the order and gaining access to the alleged victim. Specifically, "The APS specialist requests law enforcement to remain with the APS specialist for the duration of the interview and home assessment."

If a caretaker refuses to allow needed services to be provided, "DHS may petition the court for an injunction to prohibit the caretaker from interfering with the provision of protective services." If the caretaker refuses to allow services to be provided after the court order has been issued, APS requests law enforcement assistance to implement the order.

Law enforcement is notified of every APS referral assigned for investigation. APS develops a working relationship with local law enforcement, county district attorney's offices, and other entities that may help facilitate the investigation and service delivery process. If an APS specialist suspects criminal wrongdoing at any time during a case, the APS specialist coordinates with local law enforcement and/or the district attorney's office on interviewing the alleged perpetrator. The APS specialist also notifies law enforcement when reports indicate dangerous animals, guns, or other dangerous situations exist that present a danger to an APS specialist. The APS chapter of Oklahoma Administrative Code provides specific guidance for APS specialists work with law enforcement when a methamphetamine laboratory may be inside or outside the vulnerable adult's residence.

Oklahoma Statutes mandate DHS to complete a prompt and thorough investigation of APS reports. Although an alleged victim may refuse to cooperate with APS, an investigation into the allegations will be completed.

The APS chapter of Oklahoma Administrative Code provides APS specialists detailed guidance on involuntary interventions. The APS specialist must determine the vulnerable adult's capacity to consent to services, in every investigation, and the specialist obtains medical and psychiatric information, when available, to assist in the determination. "If a vulnerable adult is deficient in all or most of the areas assessed, they may lack the capacity to consent to protective services and it may be appropriate to petition the district court for an order authorizing the provision of needed services." DHS may seek an emergency order for involuntary services to provide emergency protective services, and if it is granted the order includes appointment of a temporary guardian. Protective services under an emergency order may be provided for 30 days. APS may request continuation of involuntary services beyond

this 30-day period. Other involuntary interventions include a possible 180-day order for continued protective services (specific evaluation requirements must be met), or a permanent guardianship.

CASE INITIATION

Cases are initiated as soon as possible within 120 business hours, unless an APS specialist IV or designee determines that a more prompt initiation is required. In an urgent situation, when prompt action may be required, the APS specialist initiates the investigation within 24 hours of receipt, or sooner at the discretion of the APS specialist IV or designee.

Long term care investigations are initiated by visiting the vulnerable adult in the nursing facility. Maltreatment reports are initiated within 20-business days or sooner when circumstances indicate immediate action is needed.

The APS specialist initiates the investigation by visiting the alleged victim at their home or other place of residence. The initial visit is unannounced, not preceded by a phone call or appointment. Before an initial home visit, the APS specialist discusses any safety issues with the APS specialist IV or designee and they make arrangements to address the safety concerns. The APS specialist may contact law enforcement for assistance that may include preceding or accompanying the APS specialist on visits to the home.

In cases where the caretaker, guardian, or next of kin is identified, the APS specialist provides a copy of "Frequently Asked Questions Adult Protective Services" to each of them and the vulnerable adult. "The APS specialist must make every reasonable effort to locate and notify the alleged victim's caretaker, guardian, and next of kin". However, if the vulnerable adult has capacity to consent, and does not want a caretaker or next of kin notified of the results of the investigation, DHS abides by their decision.

Law enforcement is notified of every APS referral assigned for investigation.

CONDUCTING INVESTIGATION

Oklahoma expects APS specialists to review records and information before completing an investigation and reaching a finding, and in provider and facility investigations they expect special emphasis on review of records and documentation. According to Oklahoma Statute, every physician or other health care professional making a report concerning the abuse, neglect or exploitation of a vulnerable adult or examining a vulnerable adult to determine the likelihood of abuse, neglect or exploitation, and every hospital in which a vulnerable adult is examined or treated for abuse, neglect or exploitation shall disclose necessary health information related to the case and provide, upon request by either the Department of Human Services or the local municipal police or sheriff's department receiving the initial report, copies of the results or the records of the examination on which the report was based, and any other

clinical notes, x-rays or photographs and other health information which is related to the case when specific criteria are met. If the APS specialist is denied access to records, documentation, or other information needed in an investigation, DHS may seek a court order to allow access.

APS uses a common assessment instrument or tool throughout the state. The assessment in the APS Computer System includes an evaluation of vulnerable adult's capacity to consent to services, risk, and needs. Oklahoma requires APS staff to perform this assessment on all investigations.

APS specialists assess the need for protective services by analyzing evidence obtained during the initial phases of the investigation. The evaluation considers whether the vulnerable adult needs protective services, and if so whether the needed services are available through DHS or the community, the client is capable and willing to obtain the needed services, the client can pay for the services or is eligible for assistance, a guardian is willing to provide services, and the vulnerable adult wants the services.

Every APS investigation (except long-term care investigations) includes an evaluation of the vulnerable adult's decision-making capacity. The APS specialist obtains medical and psychiatric information, when available, to assist with the determination.

The APS specialist assesses and considers:

- *The vulnerable adult's short and long-term memory*
- *The vulnerable adult's executive functioning by his or her ability to plan and execute a plan*
- *The vulnerable adult's ability to recognize risk factors*
- *The vulnerable adult's or caretaker's denial of problems the vulnerable adult's executive functioning by his or her ability to understand and follow directions*
- *Indicators of affective disorders, such as depression or bipolar disorder*
- *Indicators of substance use or abuse, dementia, delirium, psychosis, traumatic brain injury, uncharacteristic socially inappropriate behaviors, impaired decision-making, and other factors*

The APS specialist's assessment of a vulnerable adult's mental capacity to consent to protective services takes into account the vulnerable adult's awareness of the:

- *Limitations and deficiencies in the physical environment;*
- *Vulnerable adult's own physical or mental limitations;*

- *Resources available to assist in meeting the vulnerable adult's needs; and*
- *Consequences to the vulnerable adult if nothing is done to improve the situation.*

The APS specialist is expected to complete the investigative report within 60 calendar days from the date the intake was received. Service provision and follow-up activities often extend past the 60 calendar days allowed for investigation and are not considered in determining if an investigation is timely.

Long-term care investigators are expected to determine a finding within 60 business days from the date they received the referral.

The APS specialist completes an investigation by reaching a finding, documenting the finding in the APS computer system, and submitting the APS Report of Investigation form to the district attorney's office within 10 calendar days of completing the investigation.

DISPOSITIONS

Oklahoma APS uses preponderance as the standard of evidence for substantiating maltreatment allegations in an APS investigation.

The APS specialist determines a disposition of substantiated, unsubstantiated, or inconclusive for each allegation.

Substantiated means the greater weight of the evidence collected during an APS investigation determines that maltreatment occurred and the alleged victim meets the definition of a vulnerable adult.

Unsubstantiated means evidence found during an APS investigation was insufficient to show that more likely than not maltreatment occurred.

"Inconclusive" means there is insufficient information to either support or not support the allegation of maltreatment, but there is a reason to suspect maltreatment.

Oklahoma APS communicates the investigation results, by sending a summary notification of findings and recommendations, to the caretaker, legal guardian, and next of kin. If the alleged victim is under guardianship or conservatorship, the APS specialist submits a report to the court with jurisdiction.

When an APS community or long-term care investigation is completed, the APS specialist sends a summary of the final investigative report to the local district attorney's office," the appropriate state agency or entity with jurisdiction over the person or issues identified in the investigation" and the long-term care ombudsman as appropriate.

Possible legal consequences can result from APS substantiated findings. APS staff sends findings to state agencies that have concurrent jurisdiction over the persons or issues investigated, “including the Oklahoma State Department of Health (OSDH) and other appropriate state licensure or certification boards, agencies, or registries.” For example, when findings are substantiated, an investigation summary may be sent to the Nurse Aide Registry, Oklahoma State Board of Nursing, or the Oklahoma State Board of Examiners for Long Term Care Administrators. “If the provider agency fails to cooperate in addressing the substantiated elements of the investigation, APS staff notifies the licensing agency, any appropriate governing board, and the district attorney's office” about the failure to cooperate.

POST-INVESTIGATIVE SERVICES

AUTHORITY

APS may provide protective services on a voluntary basis “when a vulnerable adult consents to provision of services, requests services, and is willing to allow the APS specialist to provide or arrange for services.” Services may be covered by private or public programs if the vulnerable adult is eligible for them. The vulnerable adult pays for the services if the APS specialist determines they are financially able to do so. Services “are necessary to aide an individual to meet essential requirements for mental or physical health and safety,” including, but not limited to medical care, food, clothing, shelter, personal hygiene, guardianship, transportation, and protection from health and safety hazards.

When the APS specialist identifies services that would benefit the vulnerable adult's family members or perpetrators, appropriate referrals are made.

If a vulnerable adult does not consent to the provision of needed services, or withdraws consent after it is given, the APS specialist documents the vulnerable adult's refusal and services are terminated unless DHS determines the person lacks capacity to consent.

APPROACH

Oklahoma APS provides staff a list of principles, with instructions to staff, that focus on least restrictive services and focusing interventions on the vulnerable adult’s right to self-determination and their wishes. For example, APS specialists are instructed that an adult who “recognizes and understands the consequences” of their choices, the APS specialist respects the client’s decision even if maltreatment is substantiated. The APS specialist must consider if available resources offer a positive alternative to the current situation from the client's perspective, unless the situation is an emergency, and the client lacks decision-making capacity.

When an APS specialist finds a vulnerable adult needs emergency services, and no payment source is available, the specialist submits an APS emergency fund request and completes a

service plan explaining how the expenditures will reduce risk, address the client's needs, and prevent the need for emergency funds in the future.

While APS specialists are expected to complete the investigation report within 60 calendar days after intake, Oklahoma APS acknowledges that service provision and follow-up activities often extend past the timeframe allowed for investigation. Service delivery and follow-up activities are not considered in determining if an investigation is timely. Adult protective services are terminated when the situation that prompted the referral has been remedied and the vulnerable adult's circumstances are stable. At this time, there is not a specific timeframe for case closure. When DHS has guardianship of the vulnerable adult, the case remains active while the court order is in effect and the case closes when the court case is terminated.

QUALITY ASSURANCE

APS specialists receive supervisory support from APS specialist III and IV staff who have completed the APS Specialist III and IV Academy.

APS cases require documentation of a review by an APS specialist IV or designee or staffing in the APS Computer System at:

- (1) intake
- (2) risk, needs, and capacity assessment
- (3) the determination of findings or conclusion
- (4) legal action determinations
- (5) service planning
- (6) follow-up
- (7) closure

Oklahoma APS specialists are required to document their cases in the APS Computer System. The specialist must document the referral, all interviews, other evidence, findings, and services provided (including legal actions) on every case.

The full case documentation on the APS Computer System provides a detailed chronological account of the entire investigation process, including:

- (1) specific circumstances of the report
- (2) date and time of the home visit
- (3) persons present during the home visit
- (4) condition of the vulnerable adult and the vulnerable adult's environment
- (5) information from collateral contacts, including date and time
- (6) APS specialist's evaluation of vulnerable adult's capacity to consent to services

- (7) *assessment of risk*
- (8) *APS specialist's determination of whether the report is substantiated, ~~or~~ unsubstantiated, or inconclusive*
- (9) *results of follow-up visits, including date and time*
- (10) *assessment of vulnerable adult's needs*
- (11) *proposed service plan for substantiated investigations*
- (12) *circumstances of vulnerable adult's acceptance or refusal of services offered*
- (13) *information concerning the actual delivery of services*
- (14) *detailed descriptions of all legal actions and follow-up activities for vulnerable adults receiving involuntary services*

The DHS Community Living, Aging and Protective Services, APS Unit has responsibility for quality assurance. APS Program Field Representatives audit every guardianship case. Non-guardianship cases are audited by a Program Field Representative or District Director when performance metrics indicate a need for audit. bWhen complaints are received regarding the provision of services or an investigation, they are referred to the APS district director who performs a case review. The APS district director sends a written response to the complainant within 45-calendar days, stating the review's general findings. If the complainant is not satisfied with the district director's findings, the complainant may, within 30-calendar days of the date of the letter, submit a written appeal to the APS State Office. A committee composed of DHS staff reviews the appeal and sends the complainant the decision within 30-calendar days

Oregon

Name of Agency	Department of Human Services
Name of Program	Adult Protective Services
Data Sources	Department of Human Services Abuse Prevention and Investigations Oregon Administrative Rules, Chapter 411, Division 20, January 2015 NAMRS Agency Component Data FFY2020 Report

CONTEXT

ADMINISTRATION

The Oregon Adult Protective Service Program operates under Oregon Statutes, Title 13, Chapter 124 and 125. It is administered within the Department of Human Services, Aging and People with Disabilities program (APD) at the state level in Salem, OR. Intake, screening and investigations, as well as the provision of protective services are conducted by investigators located at district offices throughout the state. Some of these offices are under the DHS umbrella while others are contracted out to local Area Agencies on Aging. APS provides protection and intervention for older adults and adults with physical disabilities who are unable to protect themselves from harm and neglect.

SCOPE

APS provides services to older adults and adults with physical disabilities. "Older Adult" means any individual 65 years of age or older. "Adult" means an individual who is 18 years of age or older. "Physical Disability" means any physical condition or cognitive condition such as brain injury or dementia that significantly interferes with an adult's ability to protect themselves from harm or neglect". Adult protective services are available to any adult residing in a licensed care facility, adult foster home or in private residences.

APS investigates reports of physical abuse, neglect, abandonment, verbal or emotional abuse, financial exploitation, sexual abuse, involuntary seclusion, and wrongful use of a physical or chemical restraint. See appendix B for definitions of the types of maltreatment.

CONFIDENTIALITY

Oregon assures the confidentiality of certain individuals' identity and information obtained in an APS intervention. However, there are exceptions. "All information involving non-facility based investigations are confidential, except for the disclosure of the conclusion." Information may also be disclosed by judicial process, by specific exceptions under state and federal law, or

with consent of the victim. No names may be released without the consent of the individual named. In investigations involving a licensed care facility, “information about the complaint and subsequent findings will be made available to the general public upon request.” However, information regarding the complainant, the reported victim, all witnesses, and the protected health information of any party are confidential, unless the release of information is authorized by the affected individual or by judicial process.

In addition, for the purpose of furthering a protective service, or to prevent or treat abuse, or when deemed to be in the best interest of a reported victim, the names of the reported victim, witnesses, any investigative report, and any records compiled during an investigation, may be made available to:

- Any law enforcement agency.
- An agency that licenses or certifies a facility where the reported abuse occurred, or licenses or certifies the individual who practices there.
- A public agency that licenses or certifies an individual that has abused or is alleged to have abused an older adult.
- The long-term care ombudsman.
- Any governmental or private non-profit agency providing adult protective services to the reported victim.
- A multidisciplinary team.
- A court, pursuant to court order.
- An administrative law judge.

Recipients of information disclosed must maintain the confidentiality of the information unless superseded by other state or federal law.

The identity of the individual reporting the suspected abuse shall be confidential and may be disclosed only with individual consent by judicial process (including administrative hearing), or as required to perform the investigation by the Department or a law enforcement agency.

GUIDING PRINCIPLES

APS embraces a social model of intervention with a primary focus on offering safety and protection to the reported victim. The over-arching ethical value is the obligation to balance the duty to protect older adults and adults with physical disabilities with the duty to protect their rights to self-determination.

Initiated interventions must be: “(a) the least restrictive available; (b) respectful of the values of the individual at risk; and (c) sought only when it has been determined that there is no surrogate decision maker in place, or that such individual is not acting responsibly in that role.”

Based on the extant materials reviewed, no information is available on policies that hold the APS to high standards of integrity.

INTAKE

REPORTERS

Mandatory reporters are any public or private official who is required by statute to report suspected abuse or neglect. These mandatory reporters are:

- *Physicians, psychiatrists, naturopathic physicians, osteopathic physicians, chiropractors, podiatric physicians, physician assistants, or surgeons including any intern or resident.*
- *Licensed practical nurses, registered nurses, nurse practitioners, nurse's aides, home health aides, or employees of an in-home health service.*
- *Employees of the department of human services, community developmental disabilities programs, or area agency on aging.*
- *Employees of the Oregon health authority, county health department, or community mental health program.*
- *Employees of a nursing facility or individuals who contract to provide services to a nursing facility.*
- *Peace officers.*
- *Members of the clergy.*
- *Regulated social workers, licensed professional counselors, or licensed marriage and family therapists.*
- *Physical, speech, or occupational therapists, audiologists, or speech language pathologists.*
- *Senior center employees.*
- *Information and referral or outreach workers.*
- *Firefighters or emergency medical services providers.*
- *Psychologists.*
- *Licensees of an adult foster home or employees of the licensee.*
- *Attorneys.*
- *Dentists.*
- *Optometrists.*
- *Members of the legislative assembly.*
- *Personal support workers.*
- *Home care workers.*
- *Referral Agents.*

- *For nursing facilities, all of the above, plus legal counsel, guardians, or family members of the resident.*

Reporters of elder abuse on reasonable grounds and good faith have immunity from any civil liability. Information on the priority levels can be found under Case Initiation.

INVESTIGATION

AUTHORITY

APS “has statutory authority and responsibility to protect older adults and adults with physical disabilities from harm or neglect.” These statutes include general adult protective services; adoption of rules consistent with federal and state laws and regulations for providing social services, including protection to individuals needing or requesting such services; and detailed steps in APS process.

APS shall immediately notify law enforcement and proceed collaboratively in a way that does not further endanger the reported victim when the following conditions exist:

- *Reasonable cause to believe a crime has been committed*
- *Access to the reportedly abused individual is denied and legal assistance is needed in gaining access*
- *Situation presents a credible danger to the APS worker or others and police escort is advisable*
- *Forensic photographic or other evidence is needed*
- *Obtain medical and financial records are needed when reported victim is incapable of consenting*

APS believes that adults have the right to make informed choices as long as those decisions are not harmful to others. This includes their right to refuse participation in APS assessments, investigation, or intervention. An individual who can make an informed choice may refuse assistance or intervention and the case will be closed and documented. The APS worker shall provide the individual with appropriate information and resources and a way to re-contact APS if a threat of harm recurs or reaches a level unacceptable to the individual.

If the individual at risk is unable to make an informed choice due to a lack of capacity, appropriate intervention must include medical assessment to determine whether capacity may be improved or restored. If the individual is at risk and is unable to consent to assessment or treatment, APS must consider involuntary intervention, which can include guardianship, conservatorship, protective orders, or civil commitment. In any case, the intervention initiated must be: a) the least restrictive available; b) respectful of the values of the individual at risk; and c) sought only when it has been determined that there is no surrogate decision maker in place, or that such individual is not acting responsibly in that role.

CASE INITIATION

Case initiation must be preceded by a screening that includes an interview process to gather and assess information to determine eligibility for adult protective services.

If the complaint meets the definition of abuse, further screening includes a) gathering of information about the reported victim's current level of functioning; b) gathering of demographic information and the history of the current problem; c) reviewing any agency records related to the complaint; or d) gathering information from collateral sources.

If the complaint involves a consumer who is currently receiving case management or eligibility services, the case manager assigned to the consumer must be notified. If the complaint involves a licensed adult foster home, the local licensor must be notified.

Oregon's APS uses the triage process of determining the nature and severity of risk to individuals and the immediacy of response required. General time frames for response as determined by following:

Community cases have four timeframes for the immediacy of the response:

- Immediately: When an emergency in which existing evidence suggests that a human life is in jeopardy.
- By the end of the same day: When the reported victim is identified as being in imminent danger.
- By the end of the next working day: When individual is identified as being in a hazardous situation that is one that may lead to increased harm or risk.
- Within five working days: When situation is problematic, one that is chronic or ongoing, or is a general complaint that an immediate response is unlikely to change the reported victim's risk level.

Assisted living, residential care, and adult/foster home cases have only two timeframes:

- By the end of the same day: When a resident's health or safety is in imminent danger; or resident has recently died, been hospitalized, or been treated in an emergency department as a result of suspected abuse or neglect.
- Before the end of the next working day: When circumstances exist that may result in abuse.

CONDUCTING INVESTIGATION

The APS worker conducts an assessment of the reported “victim's degree of risk, level of functioning, adequacy of information, and ability to protect his or her own interests. The assessment includes determining the reported victim's ability to reduce the risk of harm in his or her environment and to make informed choices and understand the consequences of those choices.”

The assessment is conducted in person with the reported victim, usually in the reported victim's home or the facility where the reported victim lives. The assessment includes: a) consultation with family, neighbors, law enforcement, mental health, hospice, in-home services, medical practitioners, and domestic violence providers, and other relevant individuals, and b) the use of accepted screening tools and c) the worker's professional judgment to determine the reported victim's safety and functional abilities.

If there is evidence that the reported victim's cognitive abilities are impaired, accepted assessment tools are also administered. The initial assessment results are used to determine the reported victim's capacity to make informed choices and to determine an appropriate course of action. When the initial APS assessment is completed, the complaint will be continued for investigation. Results of the APS assessment of the reported victim's cognitive and functional abilities is recorded in the Department-approved system and is included in the APS report.

APS investigation is the process of determining whether abuse or neglect occurred. The results of the investigation conclude whether the initial complaint is substantiated or unsubstantiated, or whether the results of the investigation are inconclusive. To complete the investigation, the APS worker must: a) identify the reported victim, the reported perpetrator, and any parties reported to have information relevant to proving or disproving the allegation; b) conduct unannounced private interviews with all parties identified to gather all relevant evidence; c) obtain and review any available and relevant documentary or physical evidence; d) create additional investigatory aids, such as maps or drawings that may aid in proving or disproving the allegation; and e) maintain a record of interviews and evidentiary review, in notes, tape recordings, copies, photographs, or other appropriate means.

The APS worker will then determine the facts of the case based on a fair and objective review of the available relevant evidence and conclude whether the preponderance (majority) of the evidence indicates whether the incident occurred and whether abuse or neglect is substantiated or unsubstantiated, or determine that the evidence is inconclusive. If the investigation is conducted within a facility, the final determination as to whether abuse occurred shall be determined by the Safety, Oversight and Quality regulatory unit within Aging and People with Disabilities.

The local office must document and close a community investigation on or before 120 business days from receipt of the initial complaint unless delayed by a concurrent criminal investigation. A reasonable delay may be permitted in the event of a concurrent criminal investigation. Facility investigations must be documented and closed on or before 60 business days.

DISPOSITIONS

The APS worker determines the facts of the case based on a fair and objective review of the available relevant evidence and conclude whether the preponderance (majority) of the evidence indicates whether the incident occurred and whether abuse or neglect is substantiated, unsubstantiated, or determine that the evidence is inconclusive.

If the investigation is conducted within a facility, the final determination as to whether abuse occurred shall be determined by the Safety, Oversight and Quality regulatory unit within Aging and People with Disabilities.

Once an investigation is completed, the reporter, the reported victim, and the reported perpetrator may be informed (verbally or in writing upon request) that:

a) there was an allegation of abuse or self-neglect and type of abuse or self-neglect being investigated; b) appropriate action is being taken; c) no abuse was found (unsubstantiated); d) abuse was found (substantiated); or e) the investigation was 'inconclusive.'

POST-INVESTIGATIVE SERVICES

AUTHORITY

APS services include:

- *Arranging for emergency services such as law enforcement and emergency medical care as needed*
- *Providing education and counseling to the individual at risk and other parties as appropriate*
- *Facilitating the delivery of additional available support services, including legal, medical, and other services*
- *Helping to arrange for possible alternative living arrangements or alternate decision makers as needed; or*
- *Providing advocacy to assure the rights of the reported victim are protected.*

APS believes that adults have the right to make informed choices as long as those decisions are not harmful to others. This includes their right to refuse participation in APS assessments, investigation, or intervention. An individual who can make an informed choice may refuse assistance or intervention the case will be closed and documented. The APS worker shall provide the individual with appropriate information and resources and a way to re-contact APS if a threat of harm recurs or reaches a level unacceptable to the individual.

APPROACH

APS' interventions must be:

- *The least restrictive available*
- *Respectful of the values of the individual at risk*
- *Sought only when it has been determined that there is no surrogate decision maker in place, or that such individual is not acting responsibly in that role.*

The initial APS intervention is designed to be short-term crisis response. Longer term intervention is made available through APS risk management or through non-APS case management.

The local office must document and close the investigation on or before 120 days from receipt of the initial complaint unless delayed by a concurrent criminal investigation. When the investigation is complete, the case shall be either:

a) documented and referred to APS risk management for further monitoring and intervention; if necessary; or b) closed and documented because: a) the situation is resolved or has been referred to appropriate services for resolution; or b) the individual at risk, having the ability to do so, decides not to have further adult protective services.

The state budget does not include funds for the APS program to spend on purchased services for victims.

QUALITY ASSURANCE

All facility investigation reports are routed through supervisory review before being sent to Safety, Oversight and Quality for regulatory use. This is an automated process that occurs within the Centralized Abuse Management system. While this same automated process does not currently take place for community investigation reports, a recent survey of local offices indicated that between 25 – 100% of all community reports are reviewed by supervisors at the local level. In addition, central office APS staff review community reports for various purposes as well. These include cases involving certified/state paid Home Care Workers, cases in which the Background Check Unit is using an APS report to determine fitness for employment, and cases randomly chosen for quality assurance review.

State policy requires that any complaint received by a local office be entered into the Centralized Abuse Management system. This is the case even if the complaint does not meet the criteria for investigation or is simply an inquiry for resources and referrals. This allows Central Office APS, as well as all local offices, to fully view and capture the work associated with the APS function.

Quality Assurance primarily takes place at the Central APS level. Quality assurance staff pull a variety of reports on key performance measures on both a monthly and quarterly basis. These include but are not limited to: compliance with timeframes for screening activities, compliance with timelines for case initiation, compliance with timeframes for investigation completion, collection of critical demographics to measure service equity, compliance in assigning triage times in accordance with rule definition, and rate of facility reports requiring additional investigation or amendment upon review by Safety, Oversight and Quality. A data report of all APS activity is completed on an annual basis and subject specific data reports are completed periodically, such as retrospective reviews of Financial Exploitation.

Pennsylvania (Aging)

Name of Agency	Department of Aging
Name of Program	Older Adult Protective Services
Data Sources	NAMRS Agency Component Data FFY2020 Report Chapter 15, Protective Services, Pennsylvania Administrative Code Older Adults Protective Services Act

CONTEXT

ADMINISTRATION

The Pennsylvania Department of Aging (PDA) is responsible for oversight and implementation of the Older Adults Protective Services Act (OAPSA), §10225 of the Pennsylvania Statutes, for individuals 60 years of age and over. Through this protective services act, Pennsylvania's commitment is to:

- Provide access to services necessary to protect the health, safety, and welfare of older adults (age 60+) who lack the capacity to protect themselves and who are at imminent risk of abuse, neglect, exploitation or abandonment;
- Safeguard older people's rights while providing the protective services needed;
- Provide for detection, reduction, correction or elimination of abuse, neglect, exploitation and abandonment;
- Establish a program of protective services for older adults who need them; and
- Educate the public as to the availability of services and create an awareness of the problem.

PDA works closely with the 52 Area Agencies on Aging (AAAs) who implement the protective services program at the local level in each of the 67 counties across Pennsylvania.

SCOPE

PDA's OAPSA program (referred to OAPS in this profile) serves individuals aged 60 or above who lack the capacity to protect themselves and who are at imminent risk of abuse, neglect, exploitation or abandonment.

The Department of Human Services (DHS) serves individuals ages 18 through 59 years of age (see the separate profile for the Adult Protective Services (APS) program that serves individuals under age 60).

OAPS investigates abuse, neglect, exploitation, and abandonment. This includes emotional, verbal, sexual, physical abuse, and both self- and caregiver neglect in both community and facility settings.

CONFIDENTIALITY

Confidentiality of and access to confidential reports.

- 1) **General rule**—*Except as provided in subsection (b) and § 15.105 (relating to limited access to records and disclosure of information), all information concerning a report under this chapter shall be confidential.*
- 2) **Exceptions**—*Relevant information concerning a report under this chapter shall be made available to the following:*
 - a) *An employee of the Department or of an agency in the course of official duties in connection with responsibilities under this chapter, including the long-term care ombudsman.*
 - b) *An employee of the Department of Health or the Department of Public Welfare in the course of official duties.*
 - c) *An employee of an agency of another state that performs protective services similar to those under this chapter.*
 - d) *A practitioner of the healing arts who is examining or treating a recipient and who suspects that the recipient is in need of protection under this chapter.*
 - e) *The director, or an individual specifically designated in writing by the director, of a hospital or other medical institution where the victim is being treated if the director or designee suspects the recipient is in need of protection under this chapter.*
 - f) *The recipient or the guardian of the recipient.*
 - g) *A court of competent jurisdiction under a court order.*
 - h) *The Attorney General.*
 - i) *Law enforcement officials of any jurisdiction as long as the information is relevant in the course of investigating cases of abuse.*
 - j) *A mandated reporter who made a report of suspected abuse. Information released under this paragraph shall be limited to the following:*
 - i) *The final status of the report following the investigation.*
 - ii) *Services provided or to be provided by the agency.*
- 3) **Excision of certain names**—*The name of the person suspected of committing the abuse shall be excised from a report made available under subsection (b)(4), (5) and (10).*

- 4) **Release of information to alleged perpetrator and victim**—Upon written request, the alleged perpetrator and victim may receive a copy of all information, except that prohibited from being disclosed by subsection (e).
- 5) **Protecting identity of person making report**—Except for reports to law enforcement officials, the release of data that would identify the individual who made a report under this chapter or an individual who cooperated in a subsequent investigation is prohibited. Law enforcement officials shall treat all reporting sources as confidential information.

GUIDING PRINCIPLES

The passage of the protective services law reinforced Pennsylvania's commitment to:

- Provide access to services necessary to protect the health, safety and welfare of older adults (age 60+) who lack the capacity to protect themselves and who are at imminent risk of abuse, neglect, exploitation or abandonment;
- Safeguard older people's rights while providing the protective services needed;
- Provide for detection, reduction, correction or elimination of abuse, neglect, exploitation and abandonment;
- Establish a program of protective services for older adults who need them; and
- Educate the public as to the availability of services and create an awareness of the problem.

INTAKE

REPORTERS

Pennsylvania requires administrators or employees who have reasonable cause to suspect a recipient is the victim or abuse to make a report to the agency within 48 hours. If it is believed that a recipient is the victim of sexual abuse, serious physical injury, serious bodily injury, or a suspicious death, a report should be made to law enforcement officials within 48 hours.

The identity of the reporter is kept confidential.

PRIORITIES

When a report is received it is screened and assigned a referral category of the following:

- *Emergency—A report placed in this category requires immediate attention because specific details in the report indicate the possibility that the older adult reported to need protective services is at imminent risk of death or serious physical harm. The person receiving an emergency report shall immediately contact a protective services caseworker designated under § 15.23(b) (relating to receiving reports; general agency responsibility) and provide that caseworker with the information contained in the report.*
- *Priority—A report placed in this category contains details which clearly suggest that the need for protective services is serious enough to require early intervention. The person receiving a priority report shall immediately contact a protective services caseworker designated under § 15.23(b) and provide that caseworker with the information in the report.*
- *Nonpriority—A report shall be placed in this category when it does not appropriately fall within the emergency or priority categories and, therefore, does not require immediate attention by the agency. A report in this category shall be referred to a protective services caseworker of the agency within the normal business hours of the agency's current or next day of business under the agency's established procedures for referring these reports.*
- *Another planning and service area—A report which is covered under § 15.23(d) shall be placed in this category. It shall be referred to the agency which has the designated responsibility for protective services in the planning and service area in which the older adult reported to need protective services is located at the time of the report. A report in this category will also meet the criteria for placement in one of the other categories in this subsection. The provisions for referral for the other category shall apply to a referral to another planning and service area.*
- *No need for protective services—A report shall be placed in this category when the person reported to be in need of protective services meets one or more of the following criteria:*
 - *Is under 60 years of age.*
 - *Has the capacity to perform or obtain, without help, services necessary to maintain physical or mental health.*
 - *Has a responsible caretaker at the time of the report?*
 - *Is not at imminent risk of danger to his person or property.*

INVESTIGATION

AUTHORITY

APS has established procedures for coordinating activities with law enforcement officials when the provision of protective services is necessary. This includes procedures for APS making reports of criminal conduct and requests for special assistance of law enforcement, and law enforcement reporting the need for protective services to APS. In some instances, law enforcement collaboration may be necessary in the provision of those services.

Access to records is assured by law.

The agency shall have access to records relevant to:

- *Investigations of reports received under this chapter.*
- *The assessment of need and the development of a service plan when an older adult's need for protective services has been or is being established.*
- *The delivery of services arranged for under the service plan developed by the agency to respond to an older adult's assessed need for specific services.*

To the fullest extent possible, law enforcement officials, the facility, the Commonwealth agency that licensed the facility and the agency shall coordinate their respective investigations, and shall advise each other and provide applicable additional information on an ongoing basis.

An older adult may refuse an assessment; however, when appropriate a court order may be sought when the agency believes protective services are needed.

When an older adult is at imminent risk of death or serious physical harm, the agency will petition the court for an emergency order to provide the necessary protective services. The older adult has the opportunity to be represented by legal counsel at all stages of the proceedings.

CASE INITIATION

Different case initiation requirements are necessary for each priority level.

- **Emergency Report**—Case must be initiated immediately.
- **Priority Report**—Case must be initiated immediately. Agency must make reasonable attempt to initiate this case within 24 hours of the initial report.
- **Nonpriority Report**—Case must be initiated in a timely manner not exceeding 72 hours of the initial report.

- No Need for Protective Services—These cases are reviewed by a caseworker to verify the priority categorization. If necessary, the case will be recategorized.

Based on the extant materials, no information is available on required notification to initiate a case.

CONDUCTING INVESTIGATION

Protective services caseworkers are required to evaluate several key factors pertaining to their older adult clients.

The protective services caseworker shall make face-to-face contact with the older adult to evaluate and document information including the following:

- *Personal appearance*
- *Physical environment*
- *Physical health*
- *Mental functioning*
- *Activities of daily living*
- *Social environment*
- *Economic status—including eligibility for public and private entitlements or resources as defined under § 15.2 (relating to definitions)*
- *Nutrition*
- *Recent experiences—losses, separations, major changes in relationships or environments*
- *The need for a formal medical or psychiatric evaluation*

Due to the establishment of report priority levels, different requirements are necessary for conducting the investigation for each priority level.

- Emergency report—A face-to-face visit must be conducted within 24 hours after the report is received.
- Priority report—Reasonable attempt to conduct a face-to-face visit must occur within 24 hours of the report being received.
- Nonpriority report—The investigation of a report categorized as nonpriority shall include at least one visit to the older adult reported to need protective services at an appropriate point in the course of the investigation. Every attempt shall be made to visit with the older adult face-to-face.
- No need for protective services—If the caseworker agrees an investigation is not necessary, an appropriate referral must be made within 72 hours.

An investigation involving abuse and neglect must be completed within 20 days of the receipt of report. An investigation is considered complete only when the report has been determined to be substantiated or unsubstantiated. If the report is substantiated, the investigation is considered complete only when the necessary steps have been taken to reduce risk to the older adult.

The available information on APS access to records is in the Investigation, Authority section.

DISPOSITIONS

The standard of evidence for substantiating a case is preponderance of the evidence.

The older adult is notified during the investigation that a report of need for protective services has been made. This notification includes a summary of the nature of the report. The agency also notifies the alleged perpetrator of the determination of the investigation.

Based on the extant materials, OAPS uses disposition categories that include substantiated and unsubstantiated. However, no additional information is available on other possible categories or the definitions for the investigation dispositions. Based on the extant materials, no information is available regarding legal consequences for substantiated perpetrators.

POST-INVESTIGATIVE SERVICES

AUTHORITY

Older adults have the right to refuse protective services unless otherwise ordered by the courts.

According to state regulations, protective services are available to adults who are the subject of substantiated reports.

Specific services to support goal attainment may include homemaker services, home-delivered meals, attendant care, other in-home services, emergency shelter or food, legal aid services, transportation and other services. ... The plan shall also address, if applicable, special needs of other members of the household unit as they may affect the older adult's need for protective services.

Based on the extant materials, no information is available on service availability to perpetrators.

APPROACH

State regulations require

On the basis of the assessment, the agency shall provide for the development of a service plan of recommended actions which reflect the least restrictive alternatives for removing or reducing imminent risk to person or property and

promote self-determination and continuity of care being provided at the time of the agency's intervention.

OAPS may utilize funding to temporarily purchase services for the client so long as the services are not being financed with other state funding or other local or public resources. Additionally, the funds must only be used when no other funding source is available. These funds may also be used when providing emergency involuntary interventions or arranging for available services needed to carry out service plans.

Services purchased by the agency are only available for a 30-day period.

Protective services are terminated when it is determined the older adult is no longer in need of the services.

QUALITY ASSURANCE

State regulations require

The supervisor of a protective services caseworker who initiates an investigation under this section shall be informed during the current day or next day of normal agency operating hours concerning the report and shall consult frequently with the caseworker about the progress and findings of the investigation.

A separate record shall be established to contain information on protective services cases. The protective service case record on an older adult shall be separated from other records maintained by the agency on that older adult. Confidentiality of the protective services case record shall be maintained by the agency as set forth in § § 15.101—15.105 (relating to confidentiality). The protective services case record includes the following:

- *The report of a need for protective services*
- *The record of investigation*
- *The written findings of the assessment*
- *The service plan*
- *Notes of contact with the older adult and others involved with the case*
- *Court documents—for example, petitions, orders and the like*
- *Letters of notification—abused and abuser*

The state has established stringent criteria for staff requirements as well as rigorous training curriculums. This includes:

- Protective services casework training
- Protective services investigation training

- Protective services intake training
- Annual in-service training

Based on the extant materials, no information is available on quality assurance activities.

Pennsylvania (Adults with Disabilities)

Name of Agency	Department of Human Services
Name of Program	Adult Protective Services
Data Sources	NAMRS Agency Component Data FFY2020 Report Pennsylvania Statute

CONTEXT

ADMINISTRATION

The Pennsylvania Department of Aging serves individuals aged 60 or above. The Department of Human Services Adult Protective Services (APS) division serves individuals ages 18 through 59 years of age. The Adult Protective Services (APS) Law (Act 70 of 2010) was enacted to provide protective services to adults between 18 and 59 years of age who have a physical or mental impairment that substantially limits one or more major life activities.

Act 70 directs the Department of Human Services to procure for the provision of protective services. Pennsylvania currently contracts with a private organization to conduct the APS programs for adults with disabilities. Statute requires that the APS program be administered in a manner designed to utilize least restrictive alternatives and to ensure services are provided in the most integrated setting.

The contracted agency is required to:

- *Investigate allegations*
- *Determine if individual is at imminent risk and if protective services are necessary*
- *Cooperatively develop a service plan*
- *Provide protective services to adults who voluntarily consent*
- *Provide services in the least restrictive environment and the most integrated setting*
- *Provide Guardianship as needed*

SCOPE

APS defines an adult as “a resident of this Commonwealth between 18 and 59 years of age who has a physical or mental impairment that substantially limits one or more major life activities.” APS refers reports concerning adults in state licensed facilities to the appropriate licensing authority for investigation.

APS investigates allegations of abuse, neglect and exploitation. Appendix B provides the definitions for the types of maltreatment.

CONFIDENTIALITY

APS information is confidential with the following exceptions:

- Information may be disclosed to a court,
- Law enforcement officials shall have access to relevant records maintained by the agency or the department if criminal conduct is suspected,
- Information may be disclosed to appropriate service providers to initiate the delivery of services.
- The alleged victim may, upon written request, receive the report,
- When the department is involved in the hearing of an appeal by a subject of a report, appropriate department staff shall be given access to information in the report record relevant to the appeal,
- For the purposes of monitoring agency performance, appropriate staff of the department may be given access to agency protective service records.

The identity of the reporter is confidential and may only be released to law enforcement.

GUIDING PRINCIPLES

The APS statute, Act 70, states:

It is declared the policy of this Commonwealth that:

- *Adults who lack the capacity to protect themselves and are at imminent risk of abuse neglect, exploitation or abandonment must have access to services necessary to protect their health, safety and welfare.*
- *Adults have the right to make choices, subject to the laws and regulations of this Commonwealth, regarding their lifestyles, relationships, bodies and health, even when those choices present risks to themselves or their property.*
- *Adults have the right to refuse some or all protective services.*
- *Information about protective services should be provided in a safe place and in a safe, understandable and responsive manner.*
- *The Commonwealth must provide for the detection, prevention, reduction and elimination of abuse, neglect exploitation and abandonment and establish a program of protective services for adults in need of them.*

- *Adults have the right to receive services in the most integrated settings and in the manner least restrictive of individual liberties.*

INTAKE

REPORTERS

Statute requires an administrator or employee “who has reasonable cause to suspect that a recipient is a victim of abuse, neglect, exploitation or abandonment will immediately make an oral report to the Protective Services hotline.” The report is to be made within 48 hours.

Agencies who are mandated reporters:

- Assisted Living Facility
- Domiciliary Care Home
- Home Health Care Agency
- Intermediate Care Facility for Individuals with Intellectual Disabilities or with Other Related Conditions
- Nursing Facility
- Older Adult Daily Living Center
- Personal Care Home
- Residential Treatment Facility

In addition, if an employee or an administrator has reasonable cause to suspect that a recipient is the victim of sexual abuse, serious injury or serious bodily injury or that a death is suspicious shall immediately contact appropriate law enforcement officials to make an oral report.

The identity of the reporter is confidential.

PRIORITIES

Reports are screened and categorized as follows:

- **Priority.** A report that requires immediate attention because the report indicates the adult is at imminent risk of death or serious injury or serious bodily injury. The report is immediately referred to a protective services caseworker.
- **Nonpriority.** A report that does not require immediate attention by the APS. The report is referred to a protective services caseworker within the normal business hours.
- **No need for protective services.** A report shall be placed in this category when the person reported to be in need of protective services meets either of the following criteria:

- Has the capacity to perform or obtain, without help, services necessary to maintain physical or mental health; or
- Is not at imminent risk or danger to his person or property or interested party, and without objection by the adult appropriate referrals shall be made to other entities.

INVESTIGATION

AUTHORITY

APS can access confidential records held by other entities or individuals with consent of the alleged victim or through a court order.

Statute provides the following involuntary interventions:

- *Emergency Petition*
 - *Where there is clear and convincing evidence that, if protective services are not provided, the adult is at imminent risk of death, serious injury or serious bodily injury, the agency may petition the court for an emergency order to provide the necessary services.*
 - *The court of common pleas of each judicial district shall ensure that a judge or magisterial district judge is available on a 24-hour-a-day, 365-day-a-year basis to accept and decide on petitions for an emergency court order under this section whenever the agency determines that a delay until normal court hours would significantly increase the danger the adult faces.*
- *Limited order: The court, after finding clear and convincing evidence of the need for an emergency order, shall order only such services as are necessary to remove the conditions creating the established need.*
- *Right to counsel: In order to protect the rights of an adult in need of protective services, an emergency court order under this section shall provide that the adult has the right to legal counsel which shall be appointed by the court at public expense.*
- *Forcible entry: Where it is necessary to forcibly enter a premise, law enforcement shall obtain a court order and may be accompanied by a representative of an agency.*
- *Health and safety requirements: An agency shall take reasonable steps to assure the safety needs of any of the adult's dependents are met and that personal property and the dwelling the adult occupies are secure.*
- *Nonrestrictive setting: In those cases in which an adult must be relocated, the court shall order the adult to be relocated to the most integrated setting and the least restrictive alternative that will ensure the adults health and safety and appropriate care.*

Statute requires APS to adopt regulations providing for the methods of conducting investigations.

Based on the extant material, no information is available on the investigation process or if an alleged victim can refuse an investigation.

CASE INITIATION

The investigation must be initiated immediately for a priority report which includes a face-to-face interview with the alleged victim, when feasible. Non-priority reports must be initiated within 72 hours.

Based on the extant material, no information is available on other case initiation requirements or who is required to be notified to initiate a case.

CONDUCTING INVESTIGATION

During the course of an investigation if APS is denied access to an adult reported to be in need of protective services and access is necessary to complete the investigation or the assessment and service plan the agency may petition the court for an order to require the appropriate access when either of the

following conditions apply:

- *The caregiver or a third party has interfered with the completion of the investigation or the assessment and service plan or the delivery of services.*
- *The agency can demonstrate that the adult denies access because of coercion/extortion or justifiable fear of further abuse neglect exploitation or abandonment.*

Based on the extant material, no information is available on systemic assessments, or access to records of other agencies, or timeframes to complete the investigation.

DISPOSITIONS

Based on the extant material, no information is available on the standard of evidence, definitions of dispositions, or legal consequences of an APS investigation.

POST-INVESTIGATIVE SERVICES

AUTHORITY

When a report is substantiated, APS is required to conduct a timely assessment. Upon completion of an assessment, a service plan is developed that includes the findings of the assessment and recommended actions. An adult may refuse to participate in the assessment.

Based on the extant material, no information is available on services provided to family members or the alleged perpetrator.

APPROACH

When a service plan is developed, it must:

- *Provide for the least restrictive alternative and encourage choice and continuity of care.*
- *Assure that services and supports are provided in the most integrated setting.*
- *Absent a court order not include the relocation of the adult unless the adult.*
- *Be written in plain language whenever possible and prepared in a manner which can be easily understood by an adult in need of protective services or that adult's appointed guardian.*
- *Be in writing and include a recommended course of action that may include the pursuit of civil or criminal remedies.*

There are funds available for APS to utilize for protective services. These funds are used when the adult is not eligible for services from other funding sources.

Based on extant material, no information is available on the timeframe for case closure.

QUALITY ASSURANCE

Based on the extant material, no information is available on supervisory approval, establishment of a case record, or quality assurance activities.

Rhode Island

Name of Agency	Rhode Island Department of Human Services
Name of Program	Adult Protective Services
Data Sources	Rhode Island Division of Elderly Affairs Adult Protective Services Policy and Procedures NAMRS Agency Component Data FFY2016 Report

CONTEXT

ADMINISTRATION

Title 42 Section 66 of the General Laws establishes the Rhode Island Adult Protective Service (APS) program. It is a state-run program within the Rhode Island Division of Elderly Affairs (RIDEA) of the Rhode Island Department of Human Services.

SCOPE

APS is responsible for investigating complaints of elderly abuse of Rhode Islanders 60 and older by a family member, caregiver or person with duty of care. Maltreatment types include physical abuse, sexual abuse, emotion abuse, neglect, abandonment and exploitation. See appendix B for definitions of abuse. The APS' responsibility to investigate these abuses cannot be delegated, in part or in whole, by any APS staff member to any other agency or individual, except when "1) the police are asked for assistance; or 2) when the reported abuse has occurred in a skilled nursing facility an assisted living residence, or when the abuse involves licensed home care personnel and is the responsibility of the Long-Term Care Ombudsman, as designated by the RIDEA."

Based on the extant materials, no information is available on other eligibility requirements such as vulnerability or disability.

CONFIDENTIALITY

APS respects the confidentiality of abuse and self-neglect client information and client records at all times. Access to health care confidential information and records will be consistent with HIPAA and the Confidentiality of Health Care Communication and Information Act, if applicable.

In addition, the identity of all persons who make reports of abuse and self-neglect is kept confidential and will not be released to any party, including the alleged victim, except in response to a court order.

GUIDING PRINCIPLES

Listen, respond and react to the needs of older Rhode Islanders and their caregivers with respect, courtesy, patience and dignity. Target services to elders in greatest need and those who are frail and at-risk (Consumer -Driven Agenda) Protect the rights and confidentiality of our consumers through adherence to laws, policies and procedures. Ensure integrity of information and equitable access in a manner that is culturally sensitive and equitable (Consumer Rights).

INTAKE

REPORTERS

Any person who has reasonable cause to believe that any person sixty (60) years of age or older has been abused, neglected, exploited, or abandoned shall make an immediate report to the RIDEA Protective Services Unit. This includes organizations and institutions such as hospitals and nonprofit agencies as well as members of the public. Any person who fails to make the report shall be punished by a fine of not more than one thousand dollars (\$1,000) or shall be imprisoned for a term of not more than one year, or both.

Any person participating in good faith in making a report, excluding any perpetrator or conspirator of those acts, has immunity from any civil or criminal liability.

PRIORITIES

An APS triage coordinator reviews intake reports and decides whether the report is an abuse or self-neglect case, needs early intervention or should be a prioritized case. The priorities are:

Priority 1 Cases: These cases are characterized by physical abuse or active neglect and the victim is in poor health, in an unsafe environment, involves a perpetrator who is a substance abuser, and/or resides with the victim, and/or the victim lacks necessary supports. In this situation, an unannounced face-to-face visit is required within one working day from when the report was made.

Priority 2 Cases: Two situations fall into this category. The first case is characterized by psychological abuse or passive neglect, and the victim is in fair health, in a stable environment, involves a perpetrator who may be a substance abuser and/or may have access to the victim, and the victim has some necessary supports in place. The second case is characterized by exploitation and the victim is independent and/or in relatively good health, in a safe environment, involves a perpetrator who is not a substance abuser and/or does not have access to the victim, and/or the victim has necessary supports in place. In these situations, an unannounced face-to-face visit is required within five (5) working days from when the report was made.

INVESTIGATION

AUTHORITY

In the event that an APS investigator is denied reasonable access to an alleged victim (by the caretaker, guardian, conservator, person possessing a power of attorney), the APS investigator can request local law enforcement to secure reasonable access to the alleged elderly victim.

If the alleged victim is competent and refuses investigation, APS will stop the investigation. The APS worker in consultation with the APS supervisor may send a formal letter regarding concerns and client refusal of intervention.

Based on the extant materials, no information is available on the program's policy regarding involuntary interventions.

CASE INITIATION

According to NAMRS information, Priority 1: cases must be acknowledged the same day or up to 48 hours from intake. Priority: 2 cases must be acknowledged 3 to 5 business days from intake.

Based on the extant materials, no additional information is available on notification requirements in order to initiate a case.

CONDUCTING INVESTIGATION

APS will immediately investigate each report of elderly abuse to determine the circumstances surrounding the alleged abuse, neglect, exploitation or abandonment and its cause. The investigation includes an unannounced personal contact with the alleged elderly victim with or without the consent of the caretaker, guardian, conservator, person possessing a power of attorney. Other witnesses to alleged abuse may also be interviewed.

In all cases when the APS worker determines that the report of abuse is founded, the APS worker shall proceed with a thorough investigation of the circumstances surrounding the abuse with the goal of prosecuting the perpetrator. The APS worker shall utilize the services of local and state police and the Office of the Attorney General to gather evidence and prepare the case for prosecution.

APS investigations should take no more than 30 days to complete from initiation to closure.

Based on the extant materials, no information is available on use of a systematic client assessment, or a requirement for professionals or organizations to provide APS access to records.

DISPOSITIONS

Interviews with the vulnerable adult and other witnesses of the abuse are conducted to provide evidence for substantiating abuse.

According to NAMRS information, the standard of evidence is credible, reasonable, or probable cause.

Based on the extant materials, no information is available on the dispositions of investigations, required communication of investigation results, or policies regarding legal consequences for substantiated perpetrators.

POST-INVESTIGATIVE SERVICES

AUTHORITY

In the event that the APS worker determines that the report of abuse is founded and the victim requires protective services, the APS worker will make a referral to the certified case management agency nearest to the residence of the vulnerable adult.

Based on the extant materials, no information is available on the program's policy on vulnerable adults refusing services.

APPROACH

Based on the extant materials, no information is available on the program's approach to providing services (least restrictive, person-centered, trauma-informed) or any available budget to provide services.

Based on the extant materials, no information is available on the program's policy for case closure.

QUALITY ASSURANCE

Case closures are the responsibility of the RIDEA elder abuse caseworker and only with the approval of the elder abuse caseworker supervisor who will review the case and make the determination to close, inactivate, or leave open a case.

RIDEA sustain and promote full adherence to the highest ethical standards and operating procedures in the development of policies and delivery of programs and services. Foster partnerships that optimally utilize all federal, state and local resources to support a community-based system of care, seeking to refine and expand services reflective of consumer and caregiver needs.

Based on the extant materials, no information is available on the program's policy to establish a case record.

Based on the extant materials, no information is available on the program's quality assurance activities.

South Carolina

Name of Agency	South Carolina Department of Social Services
Name of Program	Adult Protective Services
Data Sources	South Carolina APS Manual South Carolina Legislature, Title 43 Social Services, Adult Protection NAMRS Agency Component Data FFY2020 Report

CONTEXT

ADMINISTRATION

The South Carolina Adult Protective Services (APS) program operates under Title 43 Chapter 35 of the South Carolina Code of Laws as part of the Department of Social Services (DSS) and is a state-administered system.

SCOPE

The APS program investigates allegations of maltreatment involving vulnerable adults. A vulnerable adult is someone 18 years or older with a physical condition or mental condition which substantially impairs the person from adequately providing for their own care or protection. This includes impairments due to infirmities of aging which include organic brain damage, advanced age, and physical, mental, or emotional dysfunction.

Allegations of maltreatment involving health professionals are reported to their licensing boards and APS does not investigate allegations in facilities. Facilities include nursing care facilities, community residential care facilities, psychiatric hospitals, or any residential program operated or contracted for operation by the Department of Mental Health or the Department of Disabilities and Special Needs.

All grievances alleging that an adult with an impairment, including advanced age, may be the subject of abuse, neglect by a caregiver, self-neglect, or exploitation are recognized as a report for investigation. APS investigates the following types of maltreatment: abuse, neglect by a caregiver, self-neglect, and exploitation.

CONFIDENTIALITY

The information in APS records is confidential and may not be seen by members of the public. Clients, their legal representatives, and/or their guardian ad litem may read the case record and may obtain copies upon request. If a subpoena is received for a case record, the local DSS

attorney or the Office of General Counsel should be contacted for guidance. Information within investigative records is also confidential.

Reporters may choose their identity to be anonymous or confidential. If confidential, their identity is covered by the same confidentiality requirements as clients.

GUIDING PRINCIPLES

In 2019, the South Carolina APS Program developed a set of guiding principles and published these in a variety of ways, including posters that were to be hung in every county office. In 2020, in collaboration with ACL through the Voluntary Guidelines Pilot Project, South Carolina expanded these guidelines and developed an APS Code of Ethics. The Code of Ethics were published in APS Policy as the APS Ethical Framework. The guiding principles and the APS Code of Ethics outline standards for the commitment to the APS program and the vulnerable adults it serves.

INTAKE

REPORTERS

State law mandates certain individuals are required to report abuse, neglect, and exploitation (ANE), these include DSS staff, and any person with actual knowledge of ANE of a vulnerable adult. In addition, any person(s) with definite knowledge of ANE of a vulnerable adult is required to report. The report is required be made within 24 hours or the next business day. The statute provides penalties for knowingly and intentionally failing to report.

Persons who make a report or participates in an assessment or judicial proceeding in good faith are immune from civil and criminal liability.

Reporters may choose their identity to be anonymous or confidential. All APS reports are processed through centralized call centers. The centralized process aids in ensuring consistency in the scope of intake, which includes the utilization of the APS Pre-Screener and APS Intake Tool, information gathering, deciding whether the report meets intake criteria, assigning response times, creating, documenting and processing APS reports. Reports may be made through a 24/7 statewide hotline number or an online reporting portal.

PRIORITIES

Abuse must be investigated no later than 24 hours after Intake Decision Time. Neglect by Caregiver and Self-Neglect must be investigated no later than 48 hours after Intake Decision Time. Exploitation must be investigated no later than 72 hours after Intake Decision Time.

There are priority levels assigned for maltreatments – abuse has the shortest response time, then neglect, then exploitation.

INVESTIGATION

AUTHORITY

The centralized Intake Hub assigns accepted reports to the appropriate county for Investigation based on the current location of the adult. The investigation may include home visits, interviews with neighbors, and a review of medical and other records. APS shall refer reports of ANE to the Vulnerable Adults Investigations Unit of the SC Law Enforcement Division if there is rational suspicion of criminal conduct.

During the investigation, it may become necessary to view documents like bank records, medical reports, etc. The institution in possession of the documents may provide them after a verbal request or may require that the request be written. A written request must contain the relevant section of the statute (43-35-20). If the institution does not reply to the written request, an Administrative Subpoena may be issued to require that the documents be transported to the office or any designated location. If consent cannot be obtained for access to the adult, or the premises, and there is probable cause that the adult is a vulnerable adult and has been abused, neglected, or exploited, an Inspection Warrant form may be attained from the Family Court.

A law enforcement officer may take a vulnerable adult into protective custody if the vulnerable adult is in a life-threatening situation and there is probable cause to believe there is an impending danger to the adult's life or bodily safety due to ANE.

An adult may not refuse an investigation but may refuse services.

CASE INITIATION

Abuse must be investigated no later than 24 hours after Intake Decision Time. Neglect by Caregiver and Self-Neglect must be investigated no later than 48 hours after Intake Decision Time. Exploitation must be investigated no later than 72 hours after Intake Decision Time.

An Intake Practitioner in the 24/7 centralized call center receives the report and processes it using the APS Pre-Screener and APS Intake Tool, information gathering, deciding whether the report meets intake criteria, assigning response times, creating, documenting and processing APS reports. The Intake Practitioner refers the report to law enforcement if necessary. The APS Supervisor in the county where the adult is located at the time of the report receives accepted intakes from the call center and assigns them to a case manager.

CONDUCTING INVESTIGATION

In identifying the client's needs and substantiating vulnerability the case manager should deliberate topics such as the adult's general functioning, IDL/ADLs, sensory/cognitive

functioning/use of help, risky considerations, and the client's strengths SC APS does not name perpetrators per state law.

The purpose of the investigation is to decide if the adult is a vulnerable adult, unable to provide for their own care and protection, and to decide if the adult is a victim of abuse, neglect, or exploitation. Upon completion of the investigation, county staff evaluate the circumstances of the reported adult to decide if the adult needs protective services. The investigation can include, but is not limited to, home visits, interviews with neighbors, and a review of medical and other records.

During an investigation, it may be necessary to review documents such as bank records, medical reports, etc. The institution in possession of the documents may offer them after a verbal request or may require that the request be written. A written request must contain the relevant section of the statute (43-35-20). If the institution does not reply to the written request, an Administrative Subpoena may be distributed to require that the documents be transported to the office or any designated location.

The initial risk assessment is finalized within 45 days of the intake. Case decisions will be documented on or before 45 days after the report (date of intake). Cases that have unusual situations may complicate the time frame, exceeding the 45 days. Should the decision take longer, the cause must be documented in the case narrative. The service plan will be finished within 15 days of the case decision and entered into the Child and Adults Protective Services System (CAPSS).

DISPOSITIONS

The standard of evidence for substantiating vulnerability is clear and convincing.

If the vulnerable adult has actually been abused, neglected, or exploited by another, the case manager sends a completed DSS-1506 to the law enforcement agency with jurisdiction within 2 days of the report.

A Proviso to the 1998- 1999 Appropriations Act requires that the Attorney General be notified of possible criminal abuse, neglect, and exploitation of vulnerable adults. A Memorandum of Understanding (MOU) between DSS and the Attorney General has been developed to further define the responsibilities of the two agencies. The Director of Elder Abuse and Adult Protection, Office of the Attorney General, is notified of substantiated cases involving actual and intentional abuse, neglect by another, or exploitation of vulnerable adults.

APS communicates the result of investigations to reporters if they request them, to alleged victims, and the Guardian ad Litem if applicable. SC APS is not legally authorized to name perpetrators.

POST-INVESTIGATIVE SERVICES

AUTHORITY

If the investigation does not disclose a need for APS services, the case will be closed. However, if the client requires services from another agency or from another section of DSS, the referrals will be made prior to the case being closed. Services are provided when the investigation shows that a vulnerable adult has been abused, neglected, or exploited and needs protective services.

With the adult's consent, the case manager is responsible for making referrals to the appropriate agency, community, and state resources. If the adult is hesitant to accept the services, it may be necessary to help the adult to understand the value of the services needed and requested.

SC APS is not legally authorized to name perpetrators. South Carolina has a Family Group Conferencing program for adults in 12 counties that helps families and fictive kin develop a plan for the client and directs them to resources. Families and fictive kin in other counties are also directed to resources if they are involved with the vulnerable adult.

APPROACH

While meeting the legal mandates, consideration must be given to the adult's right to self-determination, the adult's lifestyle and culture, and the requirement that services be provided in the least restrictive environment. APS has the legal authority and accountability to evaluate reports of ANE of vulnerable adults in certain settings. While removing danger to the client, services must be provided in the least restrictive setting. Partiality is given to in-home services with court ordered placement/services as a last resort.

The APS Emergency Fund may be used to buy services when resources required to secure the services are not available. An assortment of bills may be paid on behalf of the adult. However, hospital bills (inpatient and emergency room) will not be paid. The Emergency Fund budget is limited, and it is not intended to provide complete support to the client. Local resources and the adult's revenue and resources should be used before a request is made to the Emergency Fund.

Cases will be closed when the adult's safety is no longer reliant on involvement by APS. When objectives and tasks on the treatment plan have been accomplished and the adult's risk level is lowered, case closure should be discussed with the supervisor and the adult and their support

system. If the adult is in custody or getting services through court order, the agency must be relieved before the case is closed.

QUALITY ASSURANCE

A single case record will be preserved for each adult to offer a continuing record of the service provided. CAPSS is the official electronic file. Staff and supervisors must use the forms and tabs in the system to certify that the electronic file is inclusive and complete. A complete case record comprises all required documents and related information, such as communication, case narratives, and documentation of all case activity, relating to the person or family unit requesting or receiving services. Complete case records should show the case manager has a thorough understanding of the client's problems, has explored suitable resources, and has followed through on a comprehensive plan to meet the needs of the client.

South Carolina APS has completed quality assurance reviews of intakes and is developing a desk review process to further review cases.

South Dakota

Name of Agency	South Dakota Department of Human Services
Name of Program	Adult Protective Services
Data Sources	South Dakota Department of Human Services Website, Forms and Publications NAMRS Agency Component Data FFY2020 Report South Dakota Legislature, Chapter 22-46

CONTEXT

ADMINISTRATION

The South Dakota (SD) Adult Protective Service Program operates under Title 22 Chapter 46 of the South Dakota Codified Law and is a state-administered program within the SD Department of Human Services, Division of Long Term Services and Supports (LTSS), the state unit on aging. There are six Adult Protective Service Specialists across SD. Adult Protective Services provides assistance to individuals residing in the community who have experienced or at risk of abuse, neglect, and exploitation.

SCOPE

APS investigates reports of maltreatment for elder adults (65 and older) and adults with disabilities (age 18 or older with an intellectual or physical disability that interferes with ability to protect himself or herself or provide for his or her own care). APS also investigates reports in nursing and assisted living facilities “when appropriate,” but law enforcement investigates criminal complaints and the SD Department of Health monitors and assesses complaints against the facilities as they are the licensing agency.

APS investigates reports of physical and emotional abuse, neglect, exploitation, abandonment and self-neglect.

CONFIDENTIALITY

All reports to APS are confidential. All reporters may remain confidential except and unless the release is ordered by a court of law.

GUIDING PRINCIPLES

1. Freedom and self-determination over safety: As long as adults can recognize the consequences of the decisions they have made in their lives, their right to make those

decisions must be respected. This right exists as long as they are capable of making that choice, harm no one in doing so, and commit no crime. Consumers have the right to refuse service, make bad choices, or be eccentric. If there is evidence that the consumer is making a reasonable choice, effort should be made to support the choice. Adults have the right to personal choices until they delegate this responsibility, or a court appoints an alternate decision maker. APS cannot remove a person from his/her home against his/her will or force a person to accept help.

2. Participation in decision-making: Adults have the right to receive information to help make informed decisions and to participate in making decisions that affect their situation. Help from the person's family, friends, service providers, APS or health care providers can be offered but it is ultimately the individual's choice to accept the help.
3. Least restrictive alternative: APS should be provided with as little disruption to the individual's life as possible. Whenever possible, assistance is provided to help consumers live in the environment of their choice. When out of home placement becomes necessary, the individual should be placed in the least restrictive environment which meets his/her needs. The needs may change over time and should be periodically re-evaluated.
4. Alleged victim is the primary consumer: The community, family, and friends' concerns about safety, crime or finances are secondary to the consumer's needs. The LTSS Specialist should think broadly about who constitutes as the consumer's "family." Neighbors, friends, church members, etc. may be filling that role. Although family resources should be explored and used whenever possible, the LTSS Specialist should be sensitive to family conflicts. Families can be the problem rather than the solution. The LTSS Specialist's primary goal is to respond to the needs of the individual (rather than his/her inability to ask for help.) To do this establish a relationship which will diminish the involved adult's fear, encourage trust and lessen resistance to the investigation so that the individual will be accepting of help when needed. Professional judgment shall be used with the goal of preventing more abuse, neglect or exploitation.
5. Protection is a shared community responsibility: It is essential for community agencies such as mental health, home health agencies, hospitals, domestic violence shelters, community centers, Community Support Providers and others work together to improve the lives of adults who have been abused, neglected, or exploited. Cooperation is needed at every step of the process, from reporting and evaluating to providing protective services.
6. Confidentiality: Adults have the right to privacy. This includes both the legal and policy requirements for confidentiality. The standard rules for confidentiality are set in state statute at [SDCL 1-36A-29](#). A new state statute will be in effect July 1, 2021 that further addresses confidentiality.

INTAKE

REPORTERS

There are two groups of mandatory reporters and the process for reporting is different for each group.

The first group includes medical professionals (physician, dentist, doctor of osteopathy, chiropractor, optometrist, podiatrist, religious healing practitioner, hospital intern or resident, nurse, paramedic, emergency medical technician, social worker or any health care professional), mental health professionals (psychologist, licensed mental health professional or counselor), or state, county or municipal criminal justice employee or law enforcement officer. These individuals must make an oral or written report within 24 hours to local law enforcement, local state's attorney or Department of Human Services.

The second group of mandatory reporters of abuse and neglect includes any staff member of a facility or service provider (nursing facility, assisted living facility, adult day care center, community support provider) or individual providing caregiving, homemaking or advocate services, or hospital personnel engaged in the admission, examination, care or treatment of elders or adults with disabilities. These individuals must report within 24 hours to the person in charge of the institution or service provider. That person would then report to local law enforcement, local state's attorney or Department of Human Services within 24 hours.

Voluntary reporting of abuse, neglect, or exploitation. Any person who knows or has reason to suspect that an elder or adult with a disability has been abused, neglected, or exploited as defined in §§ 22-46-1 to 22-46-3, inclusive, may report that information, regardless of whether that person is one of the mandatory reporters listed in §§ 22-46-9 and 22-46-10.

PRIORITIES

LTSS must involve law enforcement immediately if there is an indication that a life or health threatening condition exists in a referral. If appropriate, APS will respond to these cases within 24 hours or the next business day, unless otherwise instructed by law enforcement. If a health threatening condition does not exist, APS will initiate the case within 48 hours and make a face-to-face visits within 10 business days.

INVESTIGATION

AUTHORITY

If LTSS receives a report of abuse, neglect, or exploitation of an elder or adult with a disability and reasonable suspicion exists to support further investigation, the report is forwarded to the Office of the Attorney General. Law enforcement agencies must cooperate with and assist the

Department of Human Services and are required to determine whether a criminal investigation is appropriate.

Under South Dakota Codified Law [21-65](#) Protection of Vulnerable Adults, a vulnerable adult is defined as a person sixty-five years of age or older who is unable to protect himself or herself from abuse as a result of age or a mental or physical condition, or an adult with a disability as defined in § 22-46-1. Within SDCL 21-65, a vulnerable adult may get a protection order, guardian ad litem, etc. to ensure their safety and provides steps to provide relief to the vulnerable adult from abuse and exploitation.

CASE INITIATION

Any time there is a report of abuse, neglect, and/or exploitation that meets the eligibility criteria defined in SD Administrative Rule 46:33, the report is entered into the SD LEAPS system. Upon receipt of the referral, the case will be reviewed and if appropriate, assigned to an APS Specialist to investigate. If there is a life or health threatening condition indicated in the report, law enforcement is notified immediately. In these cases, APS will be involved unless otherwise instructed by law enforcement.

CONDUCTING INVESTIGATION

The investigation and face to face contact depends on whether a life or health threatening condition exists or not. The initial investigation may begin with collateral contacts and usually is completed during the initial visit, but an APS follow-along case may be opened when the concern cannot be resolved within the investigation.

LTSS must involve law enforcement immediately if a life or health threatening condition exists and will respond to cases within 24 hours of the next business day, unless otherwise instructed by law enforcement. If a health threatening condition does not exist, LTSS will make collateral contacts within 48 hours and make a face to face contact within 10 business days.

APS Specialists have 45 days to complete the investigation.

DISPOSITIONS

The outcome of the APS investigation will typically be one of the following:

- Problem Found (substantiated): The allegation is supported by the majority of the evidence;
- No Problem Found (unsubstantiated): The allegation is not supported by the majority of the evidence; or
- Inconclusive: The allegation leads to no conclusion or definite result due to lack of witnesses, lack of jurisdiction, or other relevant evidence.

When a case is criminal in nature, law enforcement becomes involved and state statutes are followed for prosecution through the court system.

Any perpetrator who is found guilty of physical abuse or neglect of an elder or adult with a disability in a manner which does not constitute aggravated assault is guilty of a Class 6 felony. Any person who emotionally or psychologically abuses an elder or adult with a disability is guilty of a Class 1 misdemeanor.

If a court finds exploitation occurred, the elder or adult with a disability has a cause of action against the perpetrator and may recover actual and punitive damages for the exploitation including attorney's fees, costs of the action, compensatory damages, and punitive damages. The action may be brought by the elder or adult with a disability, or that person's guardian, conservator, or other person acting on his or her behalf. In addition to the damages, the court may revoke the perpetrator's responsibility for or ability to access the victim's property or interests.

POST-INVESTIGATIVE SERVICES

AUTHORITY

LTSS may make referrals for additional services. Those services may be through outside agencies and resources or services that are offered and provided through LTSS, depending on the individual's need and interest. The individual has a right to refuse any assistance from LTSS.

APPROACH

Refer to the section Guiding Principles.

There are wide arrays of APS services that provide short-term crisis intervention to stabilize and safeguard the elder or adult with a disability, and, if necessary, more restrictive services are available to provide for the long-term safety of the individual.

QUALITY ASSURANCE

All cases are reviewed for quality assurance purposes by the APS Supervisor and/or the Elder Rights Program Supervisor.

Tennessee

Name of Agency	Tennessee Department of Human Services
Name of Program	Adult Protective Services
Data Sources	Tennessee APS Manual NAMRS Agency Component Data FFY2020 Report

CONTEXT

ADMINISTRATION

The Tennessee Adult Protective Services operates under the Tennessee Adult Protection Act, Title 71, Chapter 6, Part 1. The APS program is part of the Tennessee Department of Human Services and is state-administered.

APS provides services for older adults and adults with disabilities unable to protect themselves from abuse, neglect, or exploitation (A/N/E). These services may include, but are not limited to, conducting investigations to determine whether or not the client is in need of protective services; referrals to other social services; and seeking legal interventions when needed.

SCOPE

There are both an age criteria and disability criteria for APS services: 1) an adult age 60 years or older who is unable to manage his/her resources; unable carry out activities of daily living, and unable to protect his/herself; or 2) an adult with a physical dysfunction who is unable to protect him/herself from abuse/neglect, or unable to take care of their basic needs. In addition, there must be information indicating that the adult's age or disability prevents the adult from protecting or providing for him/herself.

APS investigates abuse, sexual abuse, neglect, self-neglect, and exploitation. Appendix B provides definitions for the types of maltreatment.

APS has the authority to conduct investigations in health care facilities that are licensed by the Tennessee Department of Health. These include hospitals, nursing homes, assisted living facilities, and homes for the aged. Incidents between residents/patients will be investigated when there are allegations that the facility staff:

- *Were negligent*
- *Failed to properly supervise the residents*
- *Failed to take appropriate action to prevent the reported incidents from occurring*

- *Could have anticipated an incident (i.e., patient has a history of abusive acting out)*
- *The allegations include any form of sexual abuse*

APS does not have the authority to investigate facilities owned by the State of Tennessee and operated by the Tennessee Department of Mental Health and Substance Abuse Services (TDMHSAS) or the Department of Intellectual and Developmental Disabilities (DIDD). Investigative staff in those agencies conduct the investigations. APS does conduct the investigation if the incident occurred outside of the facilities grounds or occurred in community residences licensed by TDMHSAS or DIDD or in facilities licensed by another authority.

CONFIDENTIALITY

APS records are confidential by law, including the identity of the reporter. This includes abuse reports, investigations, and protective services provided.

If needed to complete investigation or provide protective services, APS may release information to:

- Service providers
- Professionals who are providing case consultation
- Individuals involved in the case
- Any agency providing licensing or regulation for the facility
- Law enforcement
- APS staff who have a need to know
- Multi-disciplinary teams
- TDMHSAS or DIDD
- Public health authorities
- Teletype writer
- Interpreters/translators

The identity of the reporter is confidential unless required to be released by a court order.

GUIDING PRINCIPLES

The APS policy manual clearly articulates the legislative history of APS as well as their philosophy of working with adults. The overarching theme is the right of self-determination, which includes involvement of the client in deciding what services will be offered. The policy manual states:

An adult has a right to self-determination. At the same time, the law permits the state, through the department, to protect an adult, to the extent of available resources, when he/she is unable to protect himself/herself because he/she lacks the mental capacity to

determine his/her status and he/she is suffering from harm if intervention by the state is necessary to ensure proper care for the adult through social services, medical services and the use of legal services to obtain necessary legal authority to provide those services.

APS staff are to take the course of action that affords protection while preserving the adult's personal freedom to the extent possible. The primary purpose of services provided is to address abuse, neglect and exploitation and to ensure safety. This is accomplished by involving the client and their family and friends in service planning activities. APS staff must have the highest ethical standards as identified in the Employees Code of Ethics.

APS uses the following principles to guide planning in protective services:

- *To the fullest extent possible, the client participates in making the decision as to the action which should be taken to meet his/her needs.*
- *The client is helped to remain at home or in the community for as long as his/her condition warrants.*
- *The action taken should always be the least restrictive/intrusive alternative available which will meet the individual's needs.*
- *To the fullest extent possible, families, caretakers and other significant members of the informal support system should be involved in meeting the needs of the adult client.*
- *To the fullest extent possible, formal services should be offered to the client if needed for protection.*
- *Legal action is only considered after all possible alternatives to legal action have been explored.*
- *After legal action is taken involving loss of rights to self-direction, they are restored as soon as the client regains his/her capacity to make such decisions. It is not assumed that the inability of a person to direct his/her affairs is permanent.*

In 2019, APS Management Team/Supervisors developed the Why and How of what we, at APS, do. The reason APS workers do our work is because "we believe that all adults should be safe, valued, heard and treated with dignity." How we, as APS workers, want to be viewed is "trustworthy, resourceful and effective."

INTAKE

REPORTERS

State law requires that "any person having reasonable cause to suspect that an adult has suffered abuse, neglect, or exploitation, shall report or cause reports to be made" to APS. This

includes the death of an adult when the cause of death is suspected to be a result of abuse, neglect, or exploitation.

The identity of the reporter is confidential unless required to be released by a court order.

PRIORITIES

There are three priority levels that determine the timeframe in which an investigation/assessment must be initiated. State policy provides a detailed list defining each priority, which is summarized as follows:

Priority A Response: A response must be initiated within 24 hours of the time the report was assigned through face-to-face contact with the alleged victim by either the case worker or law enforcement. If the initiation is made by law enforcement, the case worker must make face-to-face contact with the client within 2 working days of contact by law enforcement.

Types of Priority A reports include physical abuse that result in serious injuries, mental health issues that place the alleged victim at imminent risk to self or others, physical health issues that require total care and there is no caregiver, and sexual abuse when the alleged perpetrator has access to the alleged victim.

Priority B Assignment: A response must be initiated through face-to-face contact with the alleged victim within 1 to 5 working days from the date of assignment. The timeframe of contact depends on the emergent nature of allegations.

Types of Priority B reports include any allegation that may result in serious harm to the alleged victim if the investigation is not initiated within 5 days. This includes repeated incidents of abuse, neglect or exploitation, an established pattern of harm, or when medical treatment or services are needed to reduce harm.

Priority C Assignment: A response must be initiated through face-to-face contact with the alleged victim within 1 to 7 working days from the date of assignment. The timeframe of contact depends on the emergent nature of allegations.

Types of Priority C reports include caretakers who are stressed and unable to continue providing care without support, potentially unsafe living environment, or the alleged victim needs some level of support with their Activities of Daily Living (ADLs).

INVESTIGATION

AUTHORITY

APS policy provides broad guidelines on the engagement of clients during both an investigation and delivering services. Clients are to be given every opportunity to make plans for him/herself and be given as much information about options available to reduce risk and enhance their

safety. The clients' wishes should be considered if they reduce risk and enhance safety to some extent.

It is the responsibility of APS to protect the client when the capacity of the client is impaired. There may be situations when the case worker involves not only the client but family members or other individuals to develop a plan to protect the client. After diligent efforts are made to engage a client with capacity and the client still refuses on-going services, the case should be closed.

There are multiple legal interventions that can be utilized during an APS case. These include temporary restraining orders, search warrants, court ordered mental/physical exams, and orders of protection. Temporary restraining orders and orders of protection should be considered as an alternative to seeking custody of the individual. If the client who lacks capacity is in immediate need of protective services to prevent irreparable harm or death, APS may seek immediate legal custody of the client. Legal actions should only be taken when all other interventions have been exhausted.

An alleged victim cannot refuse an investigation.

CASE INITIATION

During the course of an investigation, statute requires that certain notifications be made to other agencies. The purpose of this notification is to provide the necessary information to all agencies that need to be involved to provide protection to vulnerable adults.

CONDUCTING INVESTIGATION

The purpose of the investigation is to systematically address each allegation by gathering as much information as possible to make a final determination. The information gathered is used in conjunction with the risk factor matrix and safety assessment to determine the service needs of the client. Information gathered is documented on the Safety Assessment and Outcome Measurement instrument and in the case record. The APS policy manual states:

The purpose of the investigation is to:

- *Substantiate or unsubstantiate the allegations made concerning the client*
- *Make a determination about the alleged perpetrator, unless self-neglect is the only basis for the referral*
- *Determine the extent of harm or danger to the client*
- *Gather the information needed to assess the level of safety of the client*
- *Identify service needs and provide protective services for the client when necessary*

The current assessments used were developed by the state. Assessments are to be completed at various times during APS' involvement with the client. The pre-assessment is completed for every investigation to describe the client's situation before APS involvement. The post-assessment is completed if the client requires on-going services. If the case is to be closed, a closure-assessment is completed. If the case is opened for on-going services, a periodic assessment is completed no less than every 6 months the case remains open. There is a final closure assessment when the case is submitted for closure.

For each Safety Assessment/Outcome Measurement instrument completed, the following domains must be evaluated:

- *Environment*
- *Financial*
- *Physical Health*
- *Mental Health*
- *Substance Abuse*
- *Developmental Disabilities*
- *Activities of Daily Living (ADL's)*
- *Informal Supports*
- *Formal Agency Supports*
- *Caretaker*
- *Elements of Abuse / Neglect*

The investigation and Safety Assessment are to be completed within 60 days from the date the case was assigned to the case worker. The timeframe can be extended for two extensions of 30 days each. Investigations can be extended when staff are:

- Unable to locate individuals who have information needed to complete the investigation,
- Involved in a joint investigation and the other agency is unable to complete their part of the investigation in 60 days; and/or
- Investigating a case that is extremely complex and requires additional time.

APS has the ability to access records needed to complete investigations:

TCA 71-6-103(j)(1) Any representative of the department actively involved in the conduct of an abuse, neglect, or exploitation investigation under this part shall be allowed access to the mental and physical health records of the adult that are in the possession of any individual, hospital, or other facility if necessary to complete the investigation mandated by this chapter.

TCA 71-6-103(4)(A) The department may be allowed access to financial records that are contained in any financial institution, as defined by § 45-10-102(3) regarding:

- (i) The person who is the subject of the investigation;
- (ii) Any caretaker of such person; and
- (iii) Any alleged perpetrator of abuse, neglect or exploitation of such person;

TCA 71-6-103(2) To complete the investigation required by this part, any authorized representative of the department actively involved in the conduct of an investigation pursuant to this part shall be allowed access to any law enforcement records or personnel records, not otherwise specifically protected by statute, of any person who is:

- (A) A caretaker of the adult, or
- (B) The alleged perpetrator of abuse, neglect or exploitation of the adult, who is the subject of the investigation.

DISPOSITIONS

The standard of proof for purposes of determining if the allegation is substantiated or unsubstantiated and for the provision of protective services to the client with their consent is substantial and material evidence. Substantial and material evidence is relevant credible evidence that an event has occurred/factual situation exists that makes it reasonable to act upon that evidence.

The standard of proof required for indicating a perpetrator and/or for considering legal intervention on behalf of a client is preponderance of evidence. Preponderance of evidence means that the greater weight of the evidence demonstrates that it is more likely than not that something has occurred.

There are four types of investigation determinations.

Valid: *Allegations of A/N/E upon which the investigation was based are determined to be valid.*

- *If the factors described above, or other credible evidence, demonstrate substantial and material evidence of the occurrence of A/N/E, this permits the provision of protective services to the client with the client's consent; or*
- *If the allegations of A/N/E meet the preponderance of evidence standard that A/N/E has occurred, and, if applicable, that a particular person or persons committed A/N/E against the client, then protective services can be provided without the client's consent by way of a court order obtained*

by the Department's legal staff and, if applicable, a perpetrator can be indicated.

Invalid: *Allegations upon which the investigation was based are determined to be invalid, i.e., there are no substantiated allegations of A/N/E and the assessment does not indicate that there is any threat of harm. Under this classification, no indication of a person as perpetrator can be made.*

Valid Threat of Harm: *There has been no substantiation of allegations that A/N/E or self-neglect has occurred but, without intervention, there is a substantial probability that harm will occur to the client in the immediate or foreseeable future. With a finding of valid threat of harm, the client is at risk for A/N/E or self-neglect (even if no injuries are currently present). The factors on the assessment reveal the impending abuse, neglect, exploitation or self-neglect. Under this classification, however, no legal action can be taken to obtain legal authority to take the client into custody or provide other protective services without the client's consent and no indication of a person as a perpetrator of A/N/E can be made.*

Incomplete: *The investigation is unable to be completed. Under this classification, no legal action can be taken to obtain legal authority to take the client into custody or provide other protective services without the client's consent and no indication of a person as perpetrator of A/N/E can be made.*

The Tennessee Department of Health administers the Vulnerable Person's Registry. During the course of an investigation, there may be situations where the APS staff has the necessary evidence to place the name of an indicated perpetrator on the registry. The names and other information contained in that registry are available to the public after due process procedures. Prior to contacting the Department of Health for placement of the name, the following guidelines must be met:

- *A thorough APS investigation was conducted and has been concluded.*
- *The case was found to be valid, and there is sufficient information to indicate a specific paid caretaker of specific maltreatment (A/N/E) of a vulnerable adult.*
- *The indicated perpetrator has received the appropriate and necessary due process.*

APS notifies the reporter at the conclusion of the investigation

TCA 71-6-103(5) After completing the evaluation, the department shall notify the person making the report of its determination.

POST-INVESTIGATIVE SERVICES

AUTHORITY

At the conclusion of the investigation and completion of the pre-and post-safety assessment, the client may remain at risk and would benefit from on-going services. On-going services may be provided only when the investigation determination is:

- Valid, or
- Valid, threat of harm

A service plan is developed for all cases that remain open for ongoing services. The purpose of the service plan is to document efforts to alleviate or reduce identified problems or risks by specifying actions to be taken and resources to be utilized.

Protective services for adults include the following activities:

- Receiving referrals of adults alleged to be in need of protective services
- Identifying and assessing the individual's situation and service needs through the use of physical, psychological, psychiatric or social evaluations and consultations
- Determining levels of safety and danger
- Counseling with adults at risk or their appropriate representatives
- Assisting in locating or maintaining adequate food, shelter and clothing
- Assisting in obtaining required medical care or mental health services
- Assisting in arranging for conservatorship, commitment or protective placements as needed
- Assisting in locating or arranging for emergency shelter care
- Providing legal intervention, when necessary

Clients with capacity may refuse protective services.

APPROACH

APS staff should provide services with a focus on preserving the clients right to self-determination. If a client refuses protective services and understands and accepts the consequences of refusing services, then the case should be closed. If the client refuses services and does not appear to have capacity to make such a decision, then legal intervention will be considered.

APS does not have funds to pay for protective services. Prior to providing services and when seeking custody of a client, staff must determine if there are resources to pay for services.

Expedited eligibility determination for Medicaid or other state benefits can be requested when there is the need to take custody of a client.

The timeframe for closing APS investigations is 60 days except for cases open for on-going services.

QUALITY ASSURANCE

The supervisor is responsible for approving investigations and cases that have been opened for on-going services prior to case closure. The supervisor's approval indicates that documentation is complete and accurate, all notifications were completed, and the reason for closure is documented.

The case record must accurately reflect the actions taken with a client, and disposition of the investigation. Case documentation must reflect true, accurate and unbiased information.

APS focuses on Continuous Quality Improvement (CQI) and uses a case review tool in which supervisors review a random selection of closed cases to ensure quality investigations and compliance with policy, procedure and IPP goals. It is intended to provide consistency across APS. The approximate number of case reviews are listed below:

- Team Coordinators review 3 cases per direct report/Investigative Specialist, per month (@15-18)
- Regional Supervisors review 1 case per Investigative Specialist per month (@15-20)

Texas

Name of Agency	Texas Department of Family and Protective Services
Name of Program	Adult Protective Services Program
Data Sources	Texas APS Handbook (February 2021) Texas Human Resources Code Chapters 48 and 40 (state statute authorizing the Texas APS program) NAMRS Agency Component Data FFY2020 Report

CONTEXT

ADMINISTRATION

Prior to September 1, 2017, the Texas Adult Protective Services (APS) program consisted of two program areas: the In-Home program and the Provider Investigations (PI) program. On September 1, 2017, the PI program transferred to the Texas Health and Human Services Commission (HHSC), and the In-Home program remained at the Texas Department of Family and Protective Services (DFPS) as Adult Protective Services (APS). This profile report focuses on the Texas APS program. The Texas APS program is authorized by [Chapter 48 of the Human Resources Code](#), Texas Statutes. Texas APS staff are state employees and the program is administered by the APS division within DFPS.

SCOPE

Chapter 48 of the Texas Human Resources Code provides the authority for the APS program to investigate allegations of abuse, neglect, and financial exploitation, and to provide protective services to adults who are elderly and adults with disabilities. An adult who is elderly is a person 65 years of age or older, and an adult with a disability is a person age 18-64 with a mental, physical, or intellectual or developmental disability that substantially impairs the person's ability to provide adequately for their own care or protection.

An adult age 18 to 64 old must have a mental, physical, or developmental disability and must be substantially impaired to be eligible for APS services.

Substantially impairs: When a disability grossly and chronically diminishes an adult's physical or mental ability to live independently or provide self-care as determined through observation, diagnosis, evaluation, or assessment.

If an adult with a disability is unable or unwilling to perform activities necessary to live independently or provide self-care, the APS specialist must assess the adult's situation to

determine whether they are substantially impaired. If the adult with a disability has a significant degree of vulnerability, for example a condition affecting the ability to protect himself or herself, then the adult is accepted as substantially impaired. An individual is automatically considered substantially impaired when he or she: has a legal guardian of the person or estate; or has been determined to qualify for Medicaid waiver programs specified in policy.

APS is authorized to investigate abuse and financial exploitation when the person responsible for the maltreatment is a caretaker, family member, or a person who has an ongoing relationship with the alleged victim. APS is authorized to investigate neglect when the person responsible for the maltreatment is the alleged victim (self-neglect) or a caretaker. APS only conducts investigations concerning individuals residing in nursing homes or assisted living facilities when an allegation of abuse, neglect, or financial exploitation has been committed by an alleged perpetrator not employed by the facility. Abuse and neglect allegations of nursing home or assisted living facility residents must also be alleged to have occurred off of the facility's property and at a time when the facility was not responsible for providing services or supervision to the alleged victim.

CONFIDENTIALITY

APS case information is confidential; however, APS may disclose some case information when it is necessary to carry out its statutory authority and responsibility. The APS specialist may verbally disclose limited case information to other entities when necessary to complete an investigation and arrange for services. The APS specialist may only provide written information or records to other entities if the client or the client's legal guardian authorizes the release.

Examples of situations that might require pertinent case information to be disclosed include:

- *Obtaining information necessary for the investigation*
- *Arranging for a forensic interview or services through a children's advocacy center (CAC)*
- *Arranging for services to address abuse, neglect, or financial exploitation*
- *Arranging for guardianship*
- *Facilitating involuntary mental health commitment*
- *Responding to a court order for disclosure*

People or entities entitled to a copy of the case record include law enforcement, the client, the client's guardian, a court-appointed executor or administrator of a deceased client's estate, the attorney ad litem or guardian ad litem representing the client, the attorney representing the

proposed guardian in a guardianship proceeding, a court investigator or court visitor appointed by the court in a guardianship proceeding, Disability Rights Texas (when it represents a client), and protective services agencies from other states. Alleged perpetrators may request case records, and the DFPS Records Management Group (RMG) will send the alleged perpetrator or their attorney a copy of the case record that pertains directly to the alleged perpetrator. A reporter, collateral, or their attorney may request case records and may receive the portion of the case record that pertains directly to their interview. The APS specialist refers requests for a copy of the case record to the DFPS RMG unless otherwise directed in policy. The case record copy provided excludes the name and other identifying information about the reporter, unless the requester meets one of the exceptions listed below.

DFPS keeps the names of persons who report abuse, neglect, and financial exploitation confidential. The information is not disclosed to APS clients, family members of APS clients, the public, or other agencies.

The names of reporters may be released verbally or in writing to

- *The court, when ordered by the judge;*
- *The district or county attorney;*
- *Law enforcement agencies;*
- *Other investigating Texas state agencies, including HHSC Provider Investigations (PI); and*
- *DFPS staff.*

GUIDING PRINCIPLES

The APS mission is to protect older adults and people with disabilities from abuse, neglect and financial exploitation by investigating and providing or arranging for services as necessary to alleviate or prevent further maltreatment.

The APS vision is protecting with purpose, passion, and persistence.

APS holds these core values:

- We champion the SAFETY and DIGNITY of vulnerable adults.
- We conduct ourselves with INTEGRITY.
- We demonstrate RESPECT for all persons.
- We COLLABORATE to improve outcomes.

INTAKE

REPORTERS

Texas statute requires reporting to DFPS if any person has cause to believe that a person who is elderly or has a disability is in a state of abuse, neglect, or financial exploitation. The statute

specifies that the mandatory reporting requirement applies without exception to people whose knowledge of the possible maltreatment is acquired during the scope of their employment or whose professional communications are usually confidential including attorneys, clergy, medical staff, and social workers.

PRIORITIES

DFPS has a centralized Statewide Intake (SWI) division that receives reports of maltreatment and assigns a priority level to the case. The APS specialist may adjust the priority level based on additional current, credible, and reliable information they obtain prior to the initial face-to-face contact with the alleged victim. The initial face-to-face contact requirements are determined by the priority level, which is based on the level of threat to the alleged victim's life and safety.

- Priority 1—Initial face-to-face required within 24 hours of intake. Reports alleging the victim is in a state of serious harm or in danger of death from abuse or neglect.
- Priority 2—Initial face-to-face required within 3 calendar days of intake. Reports alleging the victim is abused, neglected, or financially exploited and is at risk of serious harm.
- Priority 3—Initial face-to-face required within 7 calendar days of intake. All other reports alleging the victim is in a state of abuse or neglect.
- Priority 4—Initial face-to-face required within 14 calendar days on intake. Reports where the only allegation is financial exploitation and there is no serious harm, danger of imminent impoverishment, and the victim's basic needs are being met.

INVESTIGATION

AUTHORITY

APS program policy provides guidance for APS specialists to conduct thorough investigation activities. That policy direction provides staff with a safety assessment tool, procedures for reviewing DFPS histories of alleged victims and alleged perpetrators, evidence collection, interviewing principles and collaterals, identifying possible lack of capacity to consent indicators, determining the need for legal intervention, establishing a preponderance of the evidence, and a risk of recidivism assessment tool. Staff are provided with a strengths and needs assessment tool to assist in determining what protective services are needed when allegations of abuse, neglect or exploitation are found to be valid.

Alleged victims have the right to refuse to cooperate with Texas APS investigations. However, APS continues to fully investigate all allegations without the alleged victim's cooperation or permission by seeking information from other sources. APS also attempts to determine the

alleged victim's capacity to consent to protective services and to ensure the alleged victim's safety.

When an APS specialist is denied access to a client's home, the specialist uses all reasonable means to obtain consent to enter the home. If those reasonable means fail, DFPS may petition the probate court for authorization to enter the home. If the court authorizes entry into the client's home, a peace officer will accompany the APS specialist and assist as needed.

APS specialists have several legal alternatives they may use when investigating or providing protective services with the goal of ensuring client safety and well-being. All legal actions must be the least restrictive alternative and can only be initiated after consultation with the supervisor and, as appropriate, regional attorney. APS may initiate the following legal actions:

- *Application for Order Authorizing Forcible Entry: to gain court-authorized entry to the client's home.*
- *Plaintiff's Original Petition for Injunctive Relief: to remedy interference with an investigation or protective services when the APS specialist is denied access to a client.*
- *Petition for the Production of Records: to access and obtain records that are necessary for a complete assessment of the factors leading to abuse, neglect, or financial exploitation.*
- *Original Petition for Protection of an Elderly or Disabled Person in an Emergency (emergency order for protective services, known as EOPS): to provide court-ordered protective services for a client who lacks capacity to consent and is refusing services that are necessary to sustain his or her life or prevent the client from serious harm.*

The APS specialist considers guardianship of a client when the APS specialist believes the client lacks capacity and a less restrictive alternative to guardianship will not resolve abuse, neglect, or financial exploitation. The APS specialist attempts to identify a person willing and able to serve as a guardian, and family members or friends must be considered first. The APS specialist determines whether they appear to be appropriate (as defined in statute) and will act in the client's best interest. A background check is completed to help with this determination. If no family member or friend is suitable and willing to serve as guardian, state statute directs APS to refer the client to the Texas Health and Human Services Commission (HHSC) Office of Guardianship Services (OGS), and then HHSC OGS assesses the client to determine if the client meets their criteria for guardianship.

CASE INITIATION

The Texas APS program is required to initiate a prompt and thorough investigation of the case, regardless of the assigned priority, within 24 hours of Statewide Intake receiving the report of abuse, neglect, or financial exploitation. Case initiation is defined as contact with a person who has current and reliable information about the alleged victim's situation.

The purpose of a case initiation is to find out if the alleged victim's basic needs are met and whether he or she will be safe until the APS specialist can make face-to-face contact with the alleged victim. The APS specialist begins the process of investigating the allegations and assessing the need for protective services during case initiation.

A successful case initiation involves:

- asking preliminary questions regarding the allegations;
- gathering enough information to determine if the priority assigned at intake is appropriate; and
- whether emergency protective services are needed to protect the alleged victim; or
- the alleged victim's basic needs are met and he or she will be safe until the face-to-face contact is made as required by policy.

The APS specialist initiates a case by contacting appropriate persons who can provide objective, current, and reliable information about the alleged victim's situation. The specialist does not initiate a case by contacting an alleged perpetrator. The specialist generally does not initiate a case by requesting a welfare check by law enforcement, calling alleged victims on the phone if the alleged perpetrator could be in the home, or calling persons who intake identified as having suicidal thoughts, intellectual disabilities, or other possible mental impairment.

CONDUCTING INVESTIGATION

Texas statute grants DFPS the authority to access any records or documents necessary for investigation and service delivery (including client-identifying information, and medical, psychological, and bank records). Any person or entity having a record or document DFPS needs to perform its duties must make the record or document available to DFPS. If access to records is denied, APS may file a motion with the probate court to request that the court order access.

APS collaborates with various agencies in complex investigations which can include assistance in conducting forensic investigations or assessing the level of risk of harm to an alleged victim. Some of the agencies APS collaborates with are law enforcement, local code enforcement, animal control agencies, the Texas Department of Public Safety, and Children's Advocacy Centers. APS specialists are required to immediately involve law enforcement if they suspect

allegations of abuse, neglect, or financial exploitation constitute a criminal offense including when an alleged victim dies during an APS investigation, and it is suspected that abuse or neglect by a perpetrator contributed to the death. Law enforcement decides whether they will conduct a criminal investigation, and may request APS discontinue its investigation. APS cooperates with law enforcement, including county or district attorneys, during such criminal investigations.

The Texas APS program uses a casework practice model that includes three assessments: (1) Safety Assessment, (2) Risk of Recidivism Assessment, and (3) Strengths and Needs Assessment. This model was developed through a collaboration between Texas APS and the National Council on Crime and Delinquency (NCCD) using NCCD's proprietary Structured Decision-Making model as a starting point. The APS specialist uses the assessment tools, along with evaluation of their observations and evidence collected, to promote client safety, to identify strengths and needs, and to reduce current and future abuse, neglect, and financial exploitation.

The Safety Assessment is completed at the beginning of the investigation and is completed again at any other time during the life of the case when the alleged victim's situation significantly changes. This assessment is used to determine if the alleged victim will be safe in the short term of about a week and assesses their overall risk of harm and level of safety to identify if immediate interventions are needed. The APS specialist completes a Risk of Recidivism Assessment (RORA) on validated investigations to identify a client's risk level of harm in the next six to twelve months, indicated by low, moderate, or high probabilities of self-neglect or abuse, neglect, or financial exploitation. The APS specialist uses the RORA score to help determine whether the case will be progressed to Intensive Case Services, Maintenance services, or closed at the end of the investigation. The RORA also informs the frequency of client contacts that occur during Intensive Case Services. Finally, the Strengths and Needs Assessment is completed on every case that is progressed to Intensive Case Services. This assessment is used to identify strengths and needs of the client and their primary caretaker (not including paid caretakers) and informs development of the service plan. The Texas APS program does not specify timeframes for completing an investigation, however, APS closely monitors the amount of time cases are open to ensure continuing progress in providing timely services to APS clients.

DISPOSITIONS

Texas APS uses preponderance as the standard of evidence for substantiating maltreatment in an APS investigation. Texas APS specialists are required to use the allegation dispositions (findings) listed below.

Valid—Based on the standard of preponderance of the evidence, it is more likely than not that the maltreatment occurred.

Invalid—Based on the standard of preponderance of the evidence, it is more likely that the maltreatment did not occur.

Unable to Determine—The allegation disposition of Unable to Determine is used when the APS specialist:

- conducts a thorough investigation and assessment through observations and interviews with the alleged victim, alleged perpetrator, or collateral contacts;
- exhausts all leads for information;
- attempts to resolve discrepancies in evidence; and
- the evidence does not support a finding of Valid or Invalid that abuse, neglect, or exploitation occurred.

Valid-Reportable Conduct—The APS specialist uses the allegation disposition Valid-Reportable Conduct when it is determined the valid allegation of abuse, neglect, or financial exploitation meets the criteria for reportable conduct in an investigation involving a perpetrator eligible for the Employee Misconduct Registry (EMR).

Valid/No Fault—Valid/No Fault is only used in the following situations:

- Inadequate care provided by an adult: A neglectful caretaker lacks the physical, intellectual, emotional, or financial capacity to provide the necessary care. This includes a ward serving in the role of caretaker.
- Inadequate care provided by a minor: A neglectful caretaker who is between the ages of 10 and 17.
- Physical or Emotional abuse: A perpetrator lacks the ability to understand his or her actions at the time of the incident because of an intellectual or developmental disability or cognitive impairment, including mental illness, dementia, and so on. The appropriateness of using this finding must be determined on a case-by-case basis, based on the details of each situation.
- Inadequate care by a family guardian (neglect only): A neglectful family guardian who lacks the knowledge or understanding of the alleged victim's disability or the available services to meet the alleged victim's needs.

The APS specialist must assess each situation on a case-by-case basis to determine whether Valid/No Fault is the appropriate finding. A finding of Valid/No Fault is not used if the alleged perpetrator is:

- An employee of a Home and Community Support Services Agency (HCSSA) providing non-Medicaid services to an alleged victim;
- A person, including a family member, privately hired who receives monetary compensation to provide personal care services; or
- a contracted or professional guardian, including DADS.

Other

The allegation disposition Other is used when an investigation of the allegation was not completed. For example, if an allegation on an intake with multiple allegations was investigated in a previous case, the APS specialist selects a disposition of Other for each duplicate allegation

Before closing the case, the APS specialist informs the alleged victim that their case is being closed unless they lack capacity to consent. Then, an adult (not the perpetrator) involved in the alleged victim's care may be informed on their behalf. When APS validates a finding against a perpetrator, the perpetrator is notified of the findings and given due process information when APS intends to release the findings outside of DFPS (i.e., to an employer). Most perpetrators do not meet this criteria so are instead offered an administrative review known as a desk review.

Following due process, APS communicates findings of investigations to certain employers. The APS specialist may also disclose case findings to authorized personnel at entities that provide residential care to the client. In some situations, the situation may warrant disclosing the case findings before due process is completed. The APS specialist considers the ongoing risk to which the client is exposed because the employer is unaware of the validated finding against a person with access to the client, or other vulnerable adults or children. The APS specialist consults the supervisor and regional attorney as they consider due process and if there is a need for emergency release of the information to the employer or other entity.

APS may release investigation findings (*Valid, Invalid, Unable to Determine, Other*) to licensing boards, commissions, or other agencies who allow the perpetrator access to vulnerable adults. Examples include, but are not limited to, the Texas Board of Nursing, Texas Medical Board, State Bar of Texas, Guardianship Certification Board, and Texas State Board of Social Work Examiners. Before notifying the appropriate entity of valid investigation findings, the APS specialist follows appropriate due process procedures.

APS notifies law enforcement, and under some circumstances Health and Human Services Commission Office of Inspector General, of situations involving a victim being abused, neglected, or financially exploited in a manner that constitutes a criminal offense. The APS specialist also notifies law enforcement of potential crimes unrelated to abuse, neglect, or financial exploitation.

APS specialists provide information to Texas HHSC (Long-term Care Regulatory division) when APS reaches a valid finding against an adult foster care provider or an employee of a Home and Community Support Services Agency, following appropriate due process procedures.

APS specialists also submit certain perpetrators names to an Employee Misconduct Registry (EMR). Certain perpetrators of substantiated allegations of maltreatment that rise to a defined level of seriousness are submitted to the EMR, a public database maintained by HHSC pursuant to Health and Safety Code, Chapter 253. The purpose of the EMR is to ensure that unlicensed Home and Community Support Services (HCSSA) personnel who commit acts of abuse, neglect, or exploitation against individuals receiving services are denied employment with certain facilities and providers. A person whose name is listed on the EMR is permanently denied employment with certain facilities and providers. Facilities and providers whose employees are subject to the EMR may not employ a person listed on the EMR. Other employers may use the EMR as an employment screening tool.

POST-INVESTIGATIVE SERVICES

AUTHORITY

Texas statute allows APS to provide services in cases where abuse, neglect, or financial exploitation is substantiated. APS specialists may provide or arrange for protective services during any stage of a case to alleviate current maltreatment and/or prevent future maltreatment. APS also may provide services to a family member or caretaker. Protective services are provided with the person's consent, and clients have the right to withdraw from or refuse services if they have the capacity to consent. When a client refuses services and lacks capacity to consent to services, statute allows APS to petition the court for an emergency order authorizing protective services if the situation poses an immediate threat to the client's health or safety.

APPROACH

The APS specialist works with the client to develop a service plan with the goal of safely maintaining clients in the least restrictive environment. The APS specialist considers underlying causes of the maltreatment, both the client's and caretaker's strengths and needs, and resources available when developing the service plan.

The state budget provides funds for Adult Protective Services to purchase emergency goods and services to resolve clients' short-term needs to remedy abuse, neglect, and financial exploitation. Purchased client services (PCS) may be used when the needed services are unavailable through other governmental, community, or private resources, and when clients cannot afford to pay for the goods and services.

The Texas APS program does not specify timeframes for case closure, however, APS closely monitors the amount of time cases are open.

QUALITY ASSURANCE

Texas APS specialists use a proprietary case management system, IMPACT (Information Management Protecting Adults and Children in Texas) to electronically document all case information. APS specialists are expected to enter the information within 24 hours of completing a contact. A case record may consist of case information in IMPACT and external documentation that cannot be stored in IMPACT, such as computer disks and audio or video tapes. The physical (paper case) file, containing case information that was not digitally uploaded into IMPACT, is sent to a Records and Imaging Office (RIO) within 30 days after the case is closed.

APS specialists submit (in IMPACT) all cases for their supervisor's review and approval before closure. The APS specialist must submit a case for supervisor approval when they want to close a case after investigation, progress the case to a service stage, close the case in service delivery or expend PCS funds. The APS supervisor is responsible for reviewing the case and approving or rejecting the request within 10 calendar days.

Texas APS has a statutorily mandated quality assurance program. DFPS was required to develop client-centered outcome measures for the intake process, investigations, risk assessment determinations, and the delivery of protective services. The agency was also required to develop minimum job performance standards for APS staff and conduct periodic performance reviews to monitor compliance with those performance standards. Supervisors are required to promptly address a staff person's failure to meet the minimum performance standards. Program administrators perform an annual performance review of supervisors, holding them accountable for the supervisor performance standards as well as the performance of their unit staff. A summary of findings pertaining to the established outcome measures and performance reviews is reported to APS district directors and other senior management. DFPS must submit a quarterly report containing a comprehensive review of APS overall performance to the governor and other officials.

Utah

Name of Agency	Utah Department of Human Resources
Name of Program	Adult Protective Services
Data Sources	Utah APS Manual and Statutes NAMRS Agency Component Data FFY2020 Report

CONTEXT

ADMINISTRATION

Adult Protective Services is a state administered program within the Utah Department of Human Services, Division of Aging & Adult Services, which is the state unit on aging. Adult Protective Services employees are all state employees.

SCOPE

The APS program serves vulnerable adults age 18 and older. Vulnerable adult is defined as an adult 65 years or older, or an adult age 18-64 who has a mental or physical impairment which substantially affects that person's ability to:

- *Provide personal protection;*
- *Provide necessities such as food, shelter, clothing, or mental or other health care;*
- *Obtain services necessary for health, safety, or welfare;*
- *Carry out the activities of daily living;*
- *Manage the adult's own financial resources; or*
- *Comprehend the nature and consequences of remaining in a situation of abuse, neglect, or exploitation.*

Utah statute gives APS the authority for investigating abuse, neglect and exploitation of all vulnerable adults in all settings. Adult Protective Services will investigate any person including providers if they are suspected of abuse, neglecting or exploiting a vulnerable adult.

When the referral involves an adult on an Indian reservation, the referral is forwarded to either the tribal or federal authorities who have responsibility for handling the investigation.

Maltreatment types include abuse, neglect, and exploitation.

Abuse means:

- (a) knowingly or intentionally, attempting to cause harm, causing harm, or placing another in fear of harm.
- (b) unreasonable or inappropriate use of physical restraint, medication, or isolation that causes or is likely to cause harm to a vulnerable adult;
- (c) emotional or psychological abuse;
- (d) a sexual offense as described in Title 76, Chapter 5, Offenses Against the Person; or
- (e) deprivation of life sustaining treatment, or medical or mental health treatment, except:
 - (i) as provided in Title 75, Chapter 2a, Advance Health Care Directive Act; or
 - (ii) when informed consent, as defined in Section 76-5-111, has been obtained.

Exploitation means a person commits the offense of financial exploitation of a vulnerable adult when the person:

- (i) *is in a position of trust and confidence, or has a business relationship, with the vulnerable adult or has undue influence over the vulnerable adult and knowingly, by deception or intimidation, obtains or uses, or endeavors to obtain or use, the vulnerable adult's funds, credit, assets, or other property with the intent to temporarily or permanently deprive the vulnerable adult of the use, benefit, or possession of the adult's property, for the benefit of someone other than the vulnerable adult;*
- (ii) *knows or should know that the vulnerable adult lacks the capacity to consent, and obtains or uses, or endeavors to obtain or use, or assists another in obtaining or using or endeavoring to obtain or use, the vulnerable adult's funds, assets, or property with the intent to temporarily or permanently deprive the vulnerable adult of the use, benefit, or possession of the vulnerable adult's property for the benefit of someone other than the vulnerable adult;*
- (iii) *unjustly or improperly uses or manages the resources of a vulnerable adult for the profit or advantage of someone other than the vulnerable adult;*
- (iv) *unjustly or improperly uses a vulnerable adult's power of attorney or guardianship for the profit or advantage of someone other than the vulnerable adult; or*
- (v) *involves a vulnerable adult who lacks the capacity to consent in the facilitation or furtherance of any criminal activity.*

Isolation" means knowingly or intentionally preventing a vulnerable adult from having contact with another person, unless the restriction of personal rights is authorized by court order, by:

- (i) *preventing the vulnerable adult from communicating, visiting, interacting, or initiating interaction with others, including receiving or inviting visitors, mail, or telephone calls, contrary to the expressed wishes of the vulnerable adult, or communicating to a visitor that the vulnerable adult is not present or does not want to meet with or talk to the visitor, knowing that communication to be false;*
 - (ii) *physically restraining the vulnerable adult in order to prevent the vulnerable adult from meeting with a visitor; or*
 - (iii) *making false or misleading statements to the vulnerable adult in order to induce the vulnerable adult to refuse to receive communication from visitors or other family members.*
- (b) *"Isolation" does not include an act:*
- (i) *intended in good faith to protect the physical or mental welfare of the vulnerable adult; or*
 - (ii) *performed pursuant to the treatment plan or instructions of a physician or other professional advisor of the vulnerable adult.*

Self-neglect" means the failure of a vulnerable adult to provide or obtain food, water, medication, health care, shelter, cooling, heating, safety, or other services necessary to maintain the vulnerable adult's wellbeing when that failure is the result of the adult's mental or physical impairment. Choice of lifestyle or living arrangements may not, by themselves, be evidence of self-neglect.

CONFIDENTIALITY

APS case information is confidential. The APS Database and adult protective case file:

- 1) *shall be made available to law enforcement agencies, the attorney general's office, city attorneys, the Division of Occupational and Professional Licensing, and county or district attorney's offices;*
- (2) *shall be released as required under Subsection 63G-2-202(4)(c); and*
- (3) *may be made available, at the discretion of the division, to:*
 - (a) *subjects of a report as follows:*
 - (i) *a vulnerable adult named in a report as a victim of abuse, neglect, or exploitation, or that adult's attorney or legal guardian; and*
 - (ii) *a person identified in a report as having abused, neglected, or exploited a vulnerable adult, or that person's attorney; and*

(b) persons involved in an evaluation or assessment of the vulnerable adult as follows:

- (i) an employee or contractor of the department who is responsible for the evaluation or assessment of an adult protection case file;*
- (ii) a multidisciplinary team approved by the division to assist Adult Protective Services in the evaluation, assessment, and disposition of a vulnerable adult case;*
- (iii) an authorized person or agency providing services to, or responsible for, the care, treatment, assessment, or supervision of a vulnerable adult named in the report as a victim, when in the opinion of the division, that information will assist in the protection of, or provide other benefits to, the victim;*
- (iv) a licensing authority for a facility, program, or person providing care to a victim named in a report; and*
- (v) legally authorized protection and advocacy agencies when they represent a victim or have been requested by the division to assist on a case, including:*
 - (A) the Office of Public Guardian, created in Section 62A-14-103; and*
 - (B) the Long-Term Care Ombudsman Program, created in Section 62A-3-203.*

GUIDING PRINCIPLES

APS policy provides overarching principles for staff. The principles are:

- Adult Protective Services shall respect the lifestyle that is knowingly and voluntarily chosen by the vulnerable adult,
- A vulnerable adult with capacity to consent has the right to self-determination,
- All services provided are voluntary unless court ordered,
- All services provided should be the least restrictive possible,
- All services provided shall be community-based unless community-based services are unavailable,
- Adult Protective Services shall encourage a vulnerable adult's family and community to take responsibility for providing necessary services,
- Adult Protective Services shall coordinate and cooperate with other agencies to protect vulnerable adults, and
- Adult Protective Services shall treat vulnerable adults and others in a courteous, dignified and professional manner.

APS adheres to the ethical principles above as well as the ethical standards set forth by NASW (National Association of Social Workers). In addition, APS has detailed policy and procedures.

INTAKE

REPORTERS

Except as provided in Subsection (4), if an individual who has reason to believe that a vulnerable adult has been the victim of abuse, neglect, or exploitation shall immediately report the suspected abuse, neglect or exploitation to Adult Protective Services or to the nearest peace officer or law enforcement agency. If a peace officer or a law enforcement agency receives a report under Subsection (1) the peace officer or the law enforcement agency shall immediately notify Adult Protective Services. Adult Protective Services and the peace officer or the law enforcement agency shall coordinate as appropriate efforts to investigate the report under Subsection (1) and to provide Protection to the vulnerable adult.

(4) Subject to Subsection (5) the reporting requirement described in Subsection (1) does not apply to:

(a) A member of the clergy with regard to any confession made to the member of the clergy while functioning in the ministerial capacity of the member of the clergy and without the consent of the individual making the confession or

(b) An attorney, or an individual employed by the attorney, if knowledge of the suspected abuse, neglect or exploitation of a vulnerable adult arises from the representation of a client unless the attorney is permitted to reveal the suspected abuse, neglect, or exploitation of the vulnerable adult to prevent reasonably certain death or substantial bodily harm in accordance with the Utah Rules of Professional Conduct Rule 1.6

(5) (a) When a member of the clergy receives information about abuse, neglect or exploitation of a vulnerable adult from any source other than confession of the perpetrator, the member of the clergy is required to report that information even though the member of the clergy may have also received information about abuse or neglect from the confession of the perpetrator.

The identity of the reporter is confidential to individuals outside of APS unless an exception is made by the Program Administrator or Director.

PRIORITIES

APS operates a statewide intake hotline which accepts all reports of abuse, neglect or exploitation. Intake staff has up to 72 hours to process calls received. There are two priorities for intake staff:

Emergency Priority: *Emergency priority means a circumstance in which a vulnerable adult is at an immediate risk of death, serious physical injury, serious bruising, or serious physical, emotional, or financial harm. The Intake Worker shall determine if the referral is an emergency priority based on the information provided by the referent. If a potential emergency does exist, an Intake Worker will immediately staff the case with the appropriate area investigator, Regional Director or designee.*

Non-Emergency Priority: *The accepted referral data should be entered into the database within 24 hours if all information pertinent to opening the investigation is available. If only partial information is available, and Intake must wait for additional information in order to open the case, Intake will hold the case for three (3) working days pending receipt of the additional information from the referent. If after three days the information is not received, Intake will disposition as unaccepted after attempting contact with the referent and determining no additional information is available.*

INVESTIGATION

AUTHORITY

APS statutes provide broad authority to assist staff in accessing alleged victims and information needed to conduct the investigation. Individuals including caretakers, facility or other institution are required to:

- Report abuse, neglect, or exploitation of a vulnerable adult,
- Cooperate with the investigation,
- Provide access to records or documents relating to the alleged victim, or
- Provide evidence in any judicial or administrative proceeding.

If a peace officer or a law enforcement agency receives a report under Subsection (1) the peace officer or the law enforcement agency shall immediately notify Adult Protective Services. Adult Protective Services and the peace officer or the law enforcement agency shall coordinate as appropriate efforts to investigate the report under Subsection (1) and to provide Protection to the vulnerable adult.

A peace officer may remove and transport a vulnerable adult to an appropriate medical or shelter facility if exigent circumstances exist, if the adult refuses to consent or lacks capacity to consent, and there is not time to notify interested parties or apply for a consent. After the peace officer transports a vulnerable adult will notify Adult Protective Services Intake.

APS staff may request emergency protective service orders for temporary protection, when an adult lacks the capacity to consent. All services provided are voluntary unless court ordered. The investigator shall seek the consent of the vulnerable adult to provide services if the vulnerable adult has the capacity to consent.

APS staff may request emergency protective services orders for temporary protection, when an adult lacks the capacity to consent.

CASE INITIATION

The following timeframes for face-to-face contact must be met for the following priorities:

Emergency response priority: Upon receipt of an emergency referral, the investigator will immediately initiate the investigation and within one (1) business day make a face-to-face visit with the alleged victim.

Non-emergency response priority: A face-to-face interview with the alleged victim will be completed within five (5) business days following the date the referral is accepted by intake. If the investigator is unable to complete the face-to-face interview within the five-day timeframe, the investigator will document his/her activities to contact the alleged victim.

APS provides notification to law enforcement when the initial report or subsequent investigation indicates that a crime may have occurred against a vulnerable adult. When the report involves a resident of a long-term care facility, notification is sent to the Health Department and the Medicaid Fraud Control Unit of the Attorney General's office. The reporter is also notified when the investigation begins.

CONDUCTING INVESTIGATION

A caretaker, facility, or other institution shall, regardless of the confidentiality standards of the caretaker, facility, or institution:

- (1) report abuse, neglect, or exploitation of a vulnerable adult in accordance with this chapter;
- (2) cooperate with any Adult Protective Services investigation;
- (3) provide Adult Protective Services with access to records or documents relating to the vulnerable adult who is the subject of an investigation; or
- (4) provide evidence in any judicial or administrative proceeding relating to a vulnerable adult who is the subject of an investigation.

The investigator may obtain an administrative subpoena when one of the following circumstances applies:

- (a) the vulnerable adult does not have capacity to consent to allow access to records to further the investigations.
- (b) the vulnerable adult legal guardian refuses to consent;
- (c) the custodian of the records or items pertinent to an investigation refused to allow access to those records or items without a subpoena; or
- (d) the information sought is necessary to investigate allegations of abuse, neglect or exploitation or to protect the alleged victim.

Utah APS uses a database (LEAPS) which includes points of assessment for vulnerability and capacity. These assessments correspond to the current definitions and policies established by APS. Formal and informal support systems, social and health needs are determined through the interview process. Financial status a predominant factor in financial exploitation cases, however may be also be a constraint in the ability of the client to obtain necessary services.

The investigation must be completed within 45 calendar days unless the supervisor approves an extension.

DISPOSITIONS

Utah uses Preponderance of Evidence as the standard for supporting an allegation. There are three investigative findings:

- Supported—a finding that there is a reasonable basis to conclude that abuse, neglect, or exploitation occurred.
- Without merit—a finding that abuse, neglect, or exploitation did not occur.
- Inconclusive—a finding that there is not a reasonable basis to conclude that abuse, neglect or exploitation occurred.

When a supported finding is made APS notifies the perpetrator. The notification contains a summary of the facts of the investigation and the process to challenge the finding. A supported finding may disqualify a person from:

- *Being licensed, certified, approved or employed by a government agency;*
- *Being employed by a service provider, person or other entity that contracts with, or is licensed by, a government agency, or*
- *Qualifying as a volunteer for certain entities.*

APS may communicate the results of the investigations with the alleged victim, alleged perpetrator or any of those agencies which were notified at the onset on the investigation that the case has been closed and with the findings of the case.

POST-INVESTIGATIVE SERVICES

AUTHORITY

APS provides referrals for services within the community both for confirmed and unconfirmed victims. However short-term services are also available during the course of the investigation to the victim, family caregiver or other providers to assist in resolving a protective need. Examples services include crisis intervention, emergency shelter. APS does not provide services to perpetrators. Once the protective need is resolved the case is closed.

The Capacity Assessment tool is used to document factors present and the investigators conclusion of the adults' capacity to consent. The investigator uses observation of the client, information from others, and a professional evaluation if needed to determine capacity. If the client has capacity, they may refuse or withdraw from services.

APPROACH

Principles for provision of APS services, including the expectation that services will be the least restrictive possible, are in the Guiding Principles. APS is working to establish protocols for trauma-informed approach with evidence-based practices.

Protective Intervention Funds may be used at the sole discretion of APS. Funds may be made available to the client, family caregiver or other provider to alleviate a protective need but the funds must directly benefit the client.

The investigation case and associated documentation must be completed within 45 calendar days from the case start date unless the supervisor has approved an extension request.

QUALITY ASSURANCE

The Program Manager is required to review and approve the investigation. If the case is opened for on-going services, a service agreement is completed and approved prior to transitioning the case to short-term services.

The Program Manager reviews all cases at closure. If the case requires additional information or is not complete, the case will be returned to the investigator for follow-up work. When the case has been completed the Program Manager will again review before closure

Utah APS uses a data management system (LEAPS) which establishes the official case record

Vermont

Name of Agency	Agency of Human Services
Name of Program	Adult Protective Services
Data Sources	Adult Protective Services Policy and Procedures Manual Raising Awareness: A Guide to Recognizing and Reporting Abuse, Neglect and Exploitation of Vulnerable Adults NAMRS Agency Component Data FFY2020 Report

CONTEXT

ADMINISTRATION

The Vermont Adult Protective Services operates under the Title 33, Chapter 69 of the Vermont Statutes. It is a state-run program within the Division of Licensing and Protection within the Department of Disabilities, Aging and Independent Living.

SCOPE

APS protects vulnerable adults whose health and welfare may be adversely affected due to abuse, neglect or exploitation. A person is a vulnerable adult if he/she:

- *Is age 18 or older; and*
- *Is a resident of licensed facility such as a nursing or community care home; or*
- *Is a patient on a psychiatric unit or in a psychiatric hospital; or*
- *Has received personal care services for longer than 1 month; or*
- *Regardless of residence (community or licensed facility) or whether any type of service is received, is impaired due to brain damage, infirmities of aging, or a physical, mental, or developmental disability:*
 - *Some impairment of the individual's ability to provide for his or her own care without assistance, including the provision of food, shelter, clothing, health care, supervision, or management of finances; or*
 - *An impairment of the individual's ability to protect himself or herself from abuse neglect or exploitation.*

APS does not have the statutory authority to investigate allegations of self-neglect. Self-neglect is defined as failure of a person to satisfy their own basic needs, and to protect him/herself from harm, including provision of food, shelter, clothing, health care and/or management of finances. When APS receives a report of self-neglect, and the individual is 60 years of age or older, a referral is made to the appropriate Area Agency on Aging. If the individual is under 60 years of age, referrals are made to any local resources available.

APS investigates allegations of abuse, neglect and exploitation. Appendix B provides the definitions of the maltreatment types.

CONFIDENTIALITY

Staff adhere to certain procedures and practices to ensure confidentiality of any information obtained by APS in the course of their work.

Information obtained through reports and investigation cannot be release except as listed in 33 V.S.A. § 6911.

The name and identifying information of the person who reports suspected abuse, neglect or exploitation is confidential with the following exceptions:

- The person making the report consents to disclosure.
- A court orders the APS to identify the reporter.

APS case files and other information obtained through reports and investigations are confidential, with the following exceptions:

- *Upon receipt of a written request, a copy of the investigative report may be released to a) the Commissioner or designee; b) person accused of having abused, neglected or exploited a vulnerable adult; c) vulnerable adult or his/her legal representative; d) Office of Professional Regulation; e) law enforcement agency, State's Attorney or Attorney General's office and f) Vermont Office of Public Guardian.*
- *Information pertinent to an investigation may be disclosed under the following circumstances: a) when AHS needs the information to remediate or prevent abuse, neglect or exploitation; b) to assist the Agency of Human Services in its oversight and monitoring responsibilities; c) in any court proceedings.*

GUIDING PRINCIPLES

APS is directed to balance its duty to protect the safety of vulnerable adults with the individual's right to self-determination. Principles and practices outlined in policy are derived from the Ethical Principles and Best Practices of the National Association of Adult Protective Services (NAAPSA) program.

APS principles and practice ensure that:

- *Adults have the right to be safe.*
- *Adults retain all their civil and constitutional rights unless some of these rights have been restricted by court action.*
- *Adults have the right to make decisions that do not conform with societal norms as long as these decisions do not harm others.*
- *Adults are presumed to have decision-making capacity unless a court adjudicates otherwise.*
- *Adults have the right to accept or refuse services.*
- *Vulnerable adults who are victims of abuse, exploitation or neglect will be treated with honesty, caring and respect.*

INTAKE

REPORTERS

Vermont law requires that some individuals must report the suspicion of abuse, neglect or exploitation of a vulnerable adult. Mandated reporters must make an initial report to APS within 48 hours. Mandated reporters are:

- *An employee of the Agency of Human Services who is involved in caregiving.*
- *A physician, osteopath, chiropractor or physician's assistant, nurse, medical examiner, licensed nursing assistant, emergency medical services personnel, dentist, or psychologist.*
- *A school teacher, school librarian, school administrator, school guidance counselor, school aide, school bus driver, or school employee or school contractor who works regularly with students.*
- *A mental health professional, social worker, person or organization that offers, provides, or arranges for personal care for vulnerable adults.*
- *A caregiver employed by a vulnerable adult.*
- *An employee, or contractor, involved in care giving for a community mental health center, therapeutic community residence, group home, or developmental home.*
- *A law enforcement officer.*
- *An employee of an adult day care center, area agency on aging, senior center, or meal program designed primarily to serve vulnerable adults.*
- *An employee of a hospital, nursing home, residential care home, home health agency.*

PRIORITIES

There are timeframes for completion of the intake and face-to-face contact with the alleged victim.

All intakes shall be completed and a determination made:

- *Within forty-eight (48) hours of receipt of the report, if no additional information is needed to complete the Intake.*
- *Within four (4) business days, if the initial report provides insufficient information to complete the Intake.*
- *If the report provides insufficient information for a complete Intake, the Program Specialist shall make two (documented) attempts to contact the Reporter by phone within forty-eight (48) hours of receipt of the report.*

All referrals opened for an investigation are triaged by staff for risk of harm, severity of harm and/or the need for protective service referrals. A value of 1, 2 or 3 is assigned to each case as summarized below:

- *Level 1: An alleged victim has suffered life threatening or severe injuries, required hospitalization as a result of maltreatment, or was the victim of sexual abuse or sexual exploitation. The Investigator shall make direct contact with the alleged victim within twenty-four (24) hours of assignment.*
- *Level 2: An alleged victim has suffered or is suffering moderate harm as a result of abuse, neglect or exploitation. The Investigator shall make direct contact with the alleged victim within two (2) business days.*
- *Level 3: An alleged victim has experienced minimal harm and the alleged perpetrator has no continued access to the alleged victim. The Investigator shall make direct contact with the alleged victim within ten (10) business days*

INVESTIGATION

AUTHORITY

The investigation shall include, except when doing so would jeopardize the safety of the vulnerable adult:

- A visit to the alleged victim's place of residence,
- Interviews with all relevant witnesses,
- An interview with the reporter,
- An interview with the alleged perpetrator,
- As appropriate, an offer of protective service(s) in cases where there is evidence that abuse, neglect or exploitation occurred.

As necessary, APS will coordinate investigations with other entities, including law enforcement agencies.

Vermont law states that all individuals who are competent to make their own decisions have a right to refuse APS services and a right to refuse to participate in an investigation. Competent adults may exercise their rights even if that refusal means that the individual will remain in the same home with someone who has abused them, or will remain in a home that is unsanitary or unsafe. APS cannot remove a competent adult from a situation that he or she refuses to leave.

APS has the statutory authority to help vulnerable adults obtain emergency orders from the courts to help protect victims from further abuse, neglect or exploitation. APS has the statutory authority to pursue a guardianship petition if a vulnerable adult has impaired cognitive functioning that significantly results in making decisions that pose serious risks to their health, safety or financial well-being. Individuals who are competent to make their own decisions, but make “bad decisions,” may not be subject to this protective action unless they wish to do so voluntarily.

CASE INITIATION

The following entities should be notified of a referral as needed:

- Law Enforcement and/or Special Victims' Units;
- Office of Professional Regulation when the alleged perpetrator is a licensed individual;
- Medicaid Fraud Unit (MFU), Office of Attorney General for Medicaid fraud by a provider of service (e.g., licensed facility; developmental home provider; etc.);
- Office of the Medical Examiner if a report alleges that a vulnerable adult's death resulted from abuse or neglect;
- Domestic Violence service provider; or
- Survey and Certification if the report is about a licensed facility or certified provider.

Based on the extant materials, no information is available on additional case initiation requirements.

CONDUCTING INVESTIGATION

During the course of an investigation, policy outlines the following steps that may be taken to gather, review and/or secure information, including but not limited to:

- *Comparing statements made by the alleged victim, the accused, witnesses and collateral contacts for consistency and to identify discrepancies and/or contradictions.*
- *A review of all documents related to the investigation, including written materials, audio/video tapes, photographs, bank statements, legal documents, court orders and statements of witnesses to fully evaluate all information pertinent to the investigation.*
- *When available, a review of previous reports or case records relevant to the current case.*

The investigation should be completed and submitted for approval within ninety (90) days and are to have field work completed and approved by one hundred twenty (120) days.

Based on the extant materials, no information is available on systematic client assessments, or a requirement for professionals and organizations to provide APS access to records.

DISPOSITIONS

The standard of evidence to determine the disposition of the allegations in an investigation is preponderance of the evidence. There are two disposition types:

Non-substantiation: The finding is based on evidence that the allegation(s) cannot be substantiated because a preponderance of evidence does not support the allegation(s). A non-substantiation finding is made when:

- *The evidence and facts gathered do not support the allegations; or*
- *Further investigation poses a danger or substantial risk of danger to a vulnerable adult, and protective measures are sufficient so that the individual is at no further risk of harm; or*
- *The client/victim cannot be located or is deceased and APS cannot obtain a preponderance of evidence to support a substantiation; or*
- *The alleged victim refuses to participate in the APS investigation, and the Investigator has determined they have capacity to make an informed decision and APS cannot obtain a preponderance of evidence to support a substantiation.*

Substantiation: The finding is reached when the evidence would lead a reasonable person to believe that the vulnerable adult has been abused, neglected or exploited.

The investigator is responsible for providing written notice of the outcome of the investigation within five (5) days of completing the investigation. The investigator will send a letter informing the following individuals of the case disposition:

- *The perpetrator will be notified that a recommendation for substantiation or non-substantiation has been made. The letter will include the basis for the recommendation, and in the case of substantiation, information regarding the individual's right to appeal.*
- *The victim and/or their legal representative will be notified that a recommendation of substantiation or non-substantiation has been made.*
- *The reporter will be notified of the outcome of the investigation.*

Vermont operates an Adult Abuse Registry. In cases of a substantiated finding the name of the perpetrator shall appear on the registry only after the completion of due process. The information may be disclosed by APS to employers who employ or contract with one or more persons to care for a vulnerable adult. Employers access the registry by submitting a Consent for Release of Information Form to APS.

POST-INVESTIGATIVE SERVICES

AUTHORITY

At the conclusion of the investigation, the investigator reviews any protective service actions taken during the course of the investigation to determine whether the victim has need for any additional assistance and/or referrals. Alleged victims who are competent may refuse services.

Decisions regarding provision of protective services will be based upon the vulnerable adult's needs and preferences. The investigator will gather sufficient information to identify the client's:

- Current services, such as medical treatment, mental health counseling, medications, public benefits such as Medicaid;
- Existing financial management resources;
- Support systems, including family, friends and community service providers;
- Legal issues, such as the need for court action (e.g., guardianship, relief from abuse order, durable power of attorney); and
- Need for referrals for additional services.

Protective services may include but are not limited to: guardianship, counseling, securing safe/sanitary living conditions, temporary restraining order, protection of financial or other assets, or securing a Power of Attorney.

Based on the extant materials, no information is available on whether or not services are provided to family members or the alleged perpetrator. There is no formal expectation of services provision to AP or family.

APPROACH

When a vulnerable adult is determined to be a victim of abuse, neglect or exploitation, the investigator arranges for provision of protective services through a written, coordinated treatment plan. A summary of the services and plan shall be included in the investigative summary.

The investigation should be completed and submitted for approval within ninety (90) days and are to have field work completed and approved by one hundred twenty (120) days.

Based on the extant materials, no information is available on whether or not the state has a budget for APS services. There is no budget specifically for protectives services.

QUALITY ASSURANCE

All investigative reports are reviewed by a field supervisor and/or the APS Director prior to case closure.

APS uses WellSky for Human Services to document all casework activity and documents.

In addition to reviewing each investigation for closure, supervisory staff reviews a representative sample of all open and closed intakes:

- *For accuracy and complete information within the report;*
- *To ensure the appropriate determination status of the statutory requirements.*
- *To consult with or provide guidance to the Program Specialist:*
 - *When an initial determination or other question arises;*
 - *To reverse the initial determination disposition of a Report; or*
 - *To ensure timely and adequate communication between the Program Specialists and the Survey and Certification Unit's Screeners*

Virginia

Name of Agency	Department for Aging and Rehabilitative Services (DARS)
Name of Program	Adult Protective Services Division
Data Sources	DSS APS Manual, 2021 NAMRS Agency Component Data FFY2020 Report

CONTEXT

ADMINISTRATION

The Virginia APS program is established under Title 51.5 of the Code of Virginia. It is state supervised and locally (county and municipal) administered. The program is administered by the Department for Aging and Rehabilitative Services (DARS) and the local departments of social services (LDSS) receive the reports, conduct investigations, and when needed and accepted by the adult, provide services. APS investigates reports alleging abuse, neglect, or exploitation or risk of abuse, neglect, or exploitation for any adult who is 60 years of age or older or 18-59 years of age and incapacitated.

SCOPE

LDSS investigate reports alleging abuse, neglect, or exploitation or risk of abuse, neglect, or exploitation for any adult who is 60 years of age or older or 18-59 years of age and incapacitated. An incapacitated person is defined as any adult who is impaired by reason of mental illness, intellectual disability, physical illness or disability, advanced age, or other causes to the extent that the adult lacks sufficient understanding or capacity to make, communicate, or carry out responsible decisions concerning his or her well-being. In addition to these criteria, the adult must be living and identifiable, and the LDSS receiving the report must be the LDSS of jurisdiction.

The local LDSS programs investigate reports of suspected abuse, neglect or exploitation of adults in both institutional and community settings except state correctional facilities. The identity of the perpetrator is not needed in order for the investigation to be initiated.

The local LDSS programs investigate reports of abuse (including infliction of pain, injury, mental anguish, or unreasonable confinement), neglect, and exploitation. Abuse includes physical, sexual, and emotional abuse. Neglect includes medical and informal lack of care by a responsible person or other caregiver and self-neglect. Exploitation includes the illegal, unauthorized, improper or fraudulent use of the person or the person's resources, benefits, assets or resources.

Additional information on definitions of maltreatment types are included in Appendix B.

CONFIDENTIALITY

The APS investigation information is confidential. The report, evidence, and any written findings, including: evaluations, records, and recommended actions shall be confidential and exempt from Freedom of Information Act (FOIA) disclosure. The identity of the reporter shall be held confidential unless he or she authorizes the disclosure of his identity or disclosure is ordered by the court. If regulatory agencies need to know the reporter's identity during the investigation, the APS worker should request the reporter's consent, preferably in writing, to release his or her identifying information. Oral or written consent should be documented in the APS assessment narrative.

GUIDING PRINCIPLES

APS operates according to the following mission, philosophy and core principles:

The mission of APS Division Program is to serve adults through programs that:

- *Protect older adults and incapacitated adults from abuse, neglect, or exploitation.*
- *Prevent the abuse, neglect, or exploitation of older adults and incapacitated adults.*
- *Prevent the inappropriate institutionalization of the elderly and impaired adults.*
- *Assist when necessary with appropriate placement.*
- *Maximize self-sufficiency.*

Philosophy of APS and Core Principles basic to planning and delivery:

- *Proper protection of adults may require an APS worker to advocate for the right of the capable adult to make his or her own choices even when the community or family may oppose these choices.*
- *The least restrictive and least intrusive intervention necessary to protect the adult and stabilize the situation is the most appropriate.*
- *The adult has the right to make decisions on his or her own behalf until he or she delegates that responsibility voluntarily or the court grants that responsibility to another individual.*
- *Adult abuse, neglect, and exploitation are social problems and their resolution, for the most part, should be sought through the provision of social services and medical services. (However, the legal system often*

plays a role in remedying adult abuse, neglect, and exploitation and preventing further maltreatment. When appropriate, it is important for APS to partner with legal system representative, such as law enforcement personnel, during investigations and service delivery.

- *Services that support and strengthen the adult's informal support system are vital to the protection of adults who are at risk of abuse, neglect, or exploitation.*
- *Legal action is considered only after all other alternatives have been explored. When legal intervention is required, the least restrictive means of intervention shall be used.*

Some situations may present a conflict of interest for an LDSS in fulfilling its responsibility to investigate. Examples of such situations include reports that implicate an LDSS employee or service provider, or his or her relative or spouse, famous or well-known community members or a local politician or board member or other situations in which LDSS staff may feel compromised or pressured. In such cases, the LDSS shall contact the appropriate state APS staff for guidance in reassigning a neighboring LDSS to investigate the report. The LDSS of original jurisdiction retains responsibility for service delivery if needed. When the LDSS determines there is a conflict of interest, the LDSS shall enter the report into PeerPlace, the APS case management system, and mark it as confidential, restricting access to the report and investigation.

INTAKE

REPORTERS

State law requires mandatory reporting for certain professional occupations or other providers.

Mandatory reporters include any person licensed by the Department of Health Professions except for persons licensed by the Board of Veterinary Medicine and include:

- Board of Nursing
- Board of Medicine
- Board of Pharmacy
- Board of Dentistry
- Board of Funeral Directors and Embalmers
- Board of Optometry
- Board of Counseling
- Board of Psychology
- Board of Social Work
- Board of Long-Term Care Administrators

- Board of Audiology and Speech Pathology
- Board of Physical Therapy

A complete list of professionals licensed by each health regulatory board may be viewed on the DHP website at: <http://www.dhp.virginia.gov/AboutDHP/ListofRegulatedProfessions/>.

Other mandated reporters include guardians, conservators, law enforcement personnel, any person employed by or contracted with a public or private agency or facility and working with adults in an administrative, supportive or direct care capacity; and individuals working for compensation for the adult including unlicensed caregivers.

PRIORITIES

The APS worker shall initiate the investigation within 24 hours.

The APS worker prioritizes an immediate response by considering the following factors:

- *The imminent danger of the adult*
- *The severity of the alleged abuse, neglect or exploitation;*
- *The circumstances surrounding the alleged abuse, neglect or exploitation;*
and
- *The physical and mental condition of the adult.*

Face to face contact with the alleged victim shall be made as soon as possible but not later than five calendar days after the initiation of the investigation unless there are valid reasons that the contact could not be made.

INVESTIGATION

AUTHORITY

State laws, regulations and policy provide APS authority to conduct various investigatory activities, including access to victims, access to information, and cooperation with or support by law enforcement. An alleged victim may refuse to participate in the APS investigation. However, in these instances, worker should use other sources of information during the investigation.

CASE INITIATION

State requirements for case initiation include determining the validity of the report. In order to initiate an investigation, the APS worker must obtain sufficient information regarding the report to determine if an immediate response is needed to preserve the safety of the alleged victim. A search in the state systems (DARTS and PeerPlace) is an authorized method to initiate an investigation. In addition, the worker will request access to records, reports, or other

information maintained by the mandated reporter. Finally, the APS worker should identify and notify other investigators (e.g. law enforcement, other licensing or regulatory agencies) to coordinate a joint investigation, if needed. Pursuant to state regulations, the worker is required to conduct a thorough investigation.

CONDUCTING INVESTIGATION

The worker shall conduct an APS assessment.

The APS assessment addresses the following:

- *The allegations in the report or circumstances discovered during the investigation meet definitions of abuse, neglect or exploitation.*
- *The extent to which the adult is physically, emotionally, and mentally capable of making and carrying out decisions concerning his health and well-being.*
- *Risk of serious harm to the adult.*
- *Need for an immediate response by the adult protective services worker upon receipt of a valid report.*
- *The ability to conduct a private interview with the alleged victim, alleged perpetrator (if known) and any collateral contacts having knowledge of the case.*
- *If appropriate, the inability to complete the investigation within the required time frames and the plan to complete the investigation.*
- *Evidence that supports the disposition. The basis for the disposition shall be documented under the "Investigative Findings" tab in the PeerPlace APS Program.*

The assessment of the adult's circumstances includes assessing the following areas: environment, functional ability, physical health, mental health/psychosocial, support system, and income and resources.

State law requires any mandated reporter to make pertinent information or records available to the APS worker investigating the report regardless of whether he or she or some other person made the protective services report. If financial exploitation is suspected at the time the report is made or discovered during the course of the investigation, the matter shall be referred to local law enforcement immediately regardless of the amount of money or property taken. The APS hotline or the APS worker is also required to notify law enforcement when sexual abuse, other criminal activity involving abuse, neglect, or exploitation that places the adult in imminent danger or serious bodily harm, or death as a result of abuse or neglect is alleged or has occurred.

The timeframe for completing the investigation and assigning a disposition by the local department is within 45 days of the date the report was initiated. If the investigation is not completed within 45 days, the record shall document the reasons.

DISPOSITIONS

The standard of evidence for substantiating an allegation of maltreatment is based on a preponderance of evidence that abuse, neglect, or exploitation has occurred, is occurring, or that the individual is at risk of abuse, neglect, or exploitation and needs protective services in order to reduce the risk.

The LDSS communicates the results of the investigations to the reporter in writing, mailed to the reporter within 10 working days of the completion of the investigation.

The LDSS communicates the results of the investigations to the alleged victim or his or her guardian and/or conservator or responsible person, either orally or in writing, and this should be documented in the case narrative within 10 working days of the completion of the investigation.

Under some circumstances, notification to the alleged perpetrator is required. The LDSS notifies an alleged perpetrator when:

- *The alleged perpetrator has been identified as such in a substantiated case of adult abuse, neglect or exploitation; and*
- *Information about the alleged perpetrator has been provided to licensing, regulatory, or legal authorities pursuant to 63.2-1605 D of the Code of Virginia.*

LDSS shall refer any appropriate matter and relevant documentation to licensing, regulatory, and legal authorities for administrative action or criminal investigation.

State policy identifies five dispositions for APS investigations: needs protective services and accepts, needs protective services and refuses, need for protective services no longer exists, unfounded, and invalid.

Needs protective services and accepts: This disposition is used when a review of the facts shows a preponderance of evidence that adult abuse, neglect, an/or exploitation has occurred, is occurring, or is at risk for occurring, the adult consents to receive services or involuntary services are ordered by the court.

Needs protective services and refuses: This disposition is used when a review of the facts shows a preponderance of evidence that adult abuse, neglect or exploitation has occurred or is occurring or the adult is at risk of abuse, neglect and exploitation; and the adult refuses or

withdraws consent to accept protective services. If the adult withdraws or refuses consent, the services shall not be provided.

Need for protective services no longer exists: This disposition is used when a preponderance of evidence shows that abuse, neglect or exploitation has occurred but the risk of future abuse, neglect, or exploitation has been removed because the perpetrator is terminated as an employee of the facility in which the adult resides ; the adult has relocated away from the setting where the abuse, neglect, or exploitation occurred; the perpetrator has been permanently separated from the adult so that future contact between the two is not possible; or the subject of the report died during the course of the investigation. The action that removes the risk shall not be independent of any actions initiated by the APS worker.

Unfounded: This disposition shall be used when a review of the facts does not show a preponderance of evidence that abuse, neglect or exploitation occurred or that the adult is at risk of abuse, neglect or exploitation. If the APS worker is unable to complete the investigation, such as if the subject of the APS report cannot be located, the disposition should be unfounded. If the disposition is unfounded, protective services are not offered. Adult services may be offered if the adult is eligible for services and agrees to the service delivery.

Invalid: This disposition shall be used if, after an investigation has been initiated, the report is found not to meet the criteria of a valid report.

When there is a suspicion that the adult's death was the result of abuse or neglect, the case shall be reported to local law enforcement and the medical examiner.

If the adult is in need of protective services, and an emergency exists, and the adult is incapacitated and lacks the capacity to consent to receive adult protective services, a petition should be filed through the LDSS attorney for a hearing to obtain the earliest possible court date requesting court authorization to provide protective services on an emergency basis. An emergency order can be granted for 15 days and may be extended for an additional five days.

POST-INVESTIGATIVE SERVICES

AUTHORITY

State policy regarding service provision is based on the investigative findings and the assessment of the adult's need for services. The APS program provides or arranges services for alleged victims, and family members and occasionally the perpetrator if appropriate.

If an adult needs protective services and has capacity to make decisions for himself or herself, he or she may accept or refuse the services needed. If the capable adult refuses to accept all of the services offered, the case will be closed or appropriate referrals made.

The LDSS shall respect the rights of adults with capacity to consider options offered by the program and refuse services, even if those decisions do not appear to reasonably be in the best interests of the adult.

The LDSS shall provide or arrange for protective services if the adult requests or affirmatively consents to receive these services. If the adult needs protective services and agrees to accept services, a service application will be completed, a service plan will be developed and service delivery initiated. If the adult refuses to accept specific services offered (i.e., nursing facility placement), but will accept different protective services (i.e., home-based services), a service plan will be developed with those accepted services. If an adult needs protective services and lacks the capacity to consent to receive the services, the court may order these services through an emergency order, a judicial authorization of treatment and detention of certain persons, appointment of a guardian or conservator, medical treatment for certain persons incapable of giving informed consent, or emergency custody and involuntary temporary detention.

In some situations, services may also be provided to the perpetrator, in order to stop the abuse, neglect, or exploitation and protect the adult. For example, respite care may be offered to a family caregiver whose abusive behavior is related to the stress of unrelieved caregiving.

APPROACH

The APS worker should include the adult in implementing the service plan. The adult has the right to make decisions about his or her affairs unless he or she has voluntarily given that right to another person or the court has assigned that right to another person. Responsible relatives, friends or other appropriate persons may be available to help facilitate resolutions and meet some of the individual's needs, so that the LDSS is needed only to provide guidance and support.

In planning for service delivery, the APS worker should identify other professionals with knowledge and expertise of the adult's ability or lack of ability to care for himself or herself or his or her affairs. Physicians, psychiatrists, public health and mental health professionals, domestic violence professionals, and professionals in the field of aging may be of value and should be appropriately involved.

If the adult is found to be in need of protective services, the least restrictive intervention is the most appropriate, and the first consideration shall be to provide the needed services in the individual's own home or place of residence. Any one or a combination of services should be considered as methods of protection in one's own home, including medical care, counseling, homemaker/chore/companion services, day services, nutrition services, transportation,

financial management, financial assistance for which the adult may be eligible, informal supportive services, home repair, protective orders, or referral to other community services.

Some adults may be unable to remain in their own homes even with a variety of services, in which case an appropriate out-of-home setting should be considered. In providing protective services to adults, purchased service components may be provided, within limits approved by the local board, without regard to income, in order to stabilize the situation of the individual and provide the needed protection.

Purchased services often identified for APS include home-based services, adult day services, home-delivered or congregate meals, emergency shelter, transportation, other emergency needs, and any other services to stabilize the situation and/or prevent institutionalization. Purchased services for APS cases are funded through Budget Line 895.

The adult protective services case should be closed when any of the following occurs:

- The goals and objectives outlined in the service plan have been attained and the adult is no longer at risk and has no other service needs;
- The adult decides to terminate services and the LDSS determines that the individual has the capacity to consent and court action is not warranted;
- The adult moves out of the department's jurisdiction. If the adult continues to need protective services, a referral should be made to, and case information shared with, the locality to which the individual relocates; or
- The adult dies.

QUALITY ASSURANCE

PeerPlace collects case and client information and provides case management for the Adult Service and Adult Protective Services Programs. Each stage of the report and investigation is documented in PeerPlace.

Five regional staff conduct a minimum of six reviews of LDSS case records each year. DARS monitors LDSS to ensure adherence to state law, regulations and policy.

Compliance reports are available in PeerPlace for LDSS to review required timeframes, such as initiation, face to face, and timely disposition are met. PeerPlace contains a case review function for LDSS supervisors and staff to utilize.

Washington

Name of Agency	Department of Social and Health Services
Name of Program	Adult Protective Services
Data Sources	Washington APS Policies and Procedures NAMRS Agency Component Data FFY2020 Report Washington Administrative Codes: Adult Protective Services

CONTEXT

ADMINISTRATION

Adult Protective Services (APS) is administered by the Aging and Long-Term Support Administration within the Department of Social and Health Services and is state-administered. Chapter 74.34 Revised Code of Washington authorizes the Department of Social and Health Services (DSHS) to investigate reports of abandonment, abuse, financial exploitation, neglect and self-neglect of vulnerable adults, and to provide protective services and legal remedies to protect vulnerable adults.

SCOPE

APS conducts investigations of alleged abandonment, abuse, neglect, self-neglect and financial exploitation of adults who are sixty years of age or older who have the functional, mental, or physical inability to care for themselves; or who are eighteen years or older and have a developmental disability; or have been found incapacitated and has a guardian; or admitted to a facility; or receiving services from home health, hospice, or home care agencies licensed or required to be licensed; or receiving services from an individual provider; or who self-directs his or her own care and receives services from a personal aide.

Facilities include:

- Adult Family Home
- Assisted Living Facility
- Nursing Home
- Supported Living/State Operated Living Alternative
- Enhanced Services Facility (ESF)

See appendix B for maltreatment definitions.

APS does not investigate concerns involving a vulnerable adult served in a Department of Health licensed/certified facility if the alleged perpetrator is affiliated with the facility.

CONFIDENTIALITY

Reporters of abuse will remain confidential unless: the reporter consents to disclosure, disclosure is permitted or required by law, or APS makes a referral or provides case information to other agencies authorized to investigate the matter.

APS may also share the outcome of an investigation with others who have a need to know the information in order to administer the program and protect individuals from future harm.

GUIDING PRINCIPLES

APS is dedicated to serving vulnerable adults in the state of Washington by investigating allegations of suspected abandonment, abuse, neglect, exploitation, and self-neglect of vulnerable adults, and by providing protective services and referrals. Guiding principles for APS include:

- Conducting objective, timely, and thorough investigations
- Conducting interviews which encourage independence, choice and self-determination
- Assisting vulnerable adults to access appropriate services and interventions to promote wellbeing
- Coordinating with community partners to serve and protect vulnerable adults
- Providing education to community members regarding abandonment, abuse, neglect, financial exploitation, and self-neglect

INTAKE

REPORTERS

APS reporting is mandatory for; an employee of the department; law enforcement officer; social worker; professional school personnel; individual provider; an employee of a facility; an operator of a facility; an employee of a social service, welfare, mental health, adult day health, adult day care, home health, home care, or hospice agency; county coroner or medical examiner; Christian Science practitioner; or health care provider subject to chapter 18.130 RCW. However, mandated reporters are not required to report self-neglect by a vulnerable adult.

It is a gross misdemeanor if the mandated reporter knowingly fails to make a report. It is a misdemeanor if a person intentionally, maliciously, or in bad faith makes a false report.

A person participating in good faith in making a report or testifying about alleged abuse, neglect, abandonment, financial exploitation, or self-neglect of a vulnerable adult in a judicial or administrative proceeding is immune from liability.

PRIORITIES

APS categorizes investigation response time according to high, medium, or low. An APS intake worker reviews facts and circumstances and assigns a priority level based on the severity and immediacy of actual or potential physical, mental or financial harm. The APS investigator and supervisor is notified immediately when a priority “High” assignment is made.

The priorities are defined along with the corresponding response times:

- High priority level: serious and life-threatening situation; must be acted upon within 24 hours.
- Medium priority level: harm that is more than minor, but is non-life-threatening; must be acted upon with 5 working days.
- Low priority level: harm that is a minor risk or resolved; must be acted upon within 10 working days.

INVESTIGATION

AUTHORITY

State policy provides detailed information about investigatory activities. These include guidelines for the APS worker to gather and evaluate information from observations, review of pertinent records, and interview of key persons including the reporter, the alleged victim, the alleged perpetrator, and collateral contacts.

APS does not require the consent of the alleged victim to conduct an investigation or interview.

APS coordinates and collaborates with local law enforcement agencies on:

- Where and how to report suspected crimes (e.g., which jurisdiction);
- Where and how to request emergency assistance related to APS safety concerns and/or access, or a welfare check of the alleged victim.
- When law enforcement enters a residence before the APS worker when conducting a joint visit to a location that poses a safety concern.

There are some involuntary interventions available to APS. State law recognizes that some vulnerable adults are unable to represent themselves in court or retain legal counsel to obtain remedies available through court.

APS, through the Attorney General's Office, is authorized to:

- Seek protection orders on behalf of vulnerable adults.
- Petition for guardianship of an adult who has been abused or neglected and lacks capacity and unable to protect his or her own interest.
- Petition the court to review actions of an attorney-in-fact under a power of attorney.

Policy gives detailed guidance to staff about steps to take for each of these actions.

CASE INITIATION

The intake worker or APS supervisor screens all intake reports and decides:

- If APS has jurisdiction over the report
- If a report will be assigned for investigation
- The priority level of the investigation

APS notifies the following entities as per statute when APS receives a report:

- Department of Health (DOH): Health Services Quality Assurance when the alleged perpetrator is a health care professional licensed, certified or registered by DOH, or a service or facility licensed/certified by DOH.
- Proper professional authority when the alleged perpetrator is a licensed, certified or registered by the authority under state law.
- Law enforcement when the intake report or investigation gives the worker reason to suspect the alleged abuse, abandonment, neglect or financial exploitation may be a crime.

The Medicaid Fraud Control Division at the Attorney General's Office must be notified if there is suspected Medicaid fraud.

CONDUCTING INVESTIGATION

APS investigates abuse cases by gathering information through interviews, observations and review of records. The results of the investigation will determine:

- If and when protective services are necessary;
- The validity of allegations of abuse, abandonment, neglect, self-neglect and financial exploitation;
- The current risk factors and supports by assessing the victim's physical, functional and mental abilities, the conditions of his/her environment, support systems, and relationships.

APS investigations should be closed within 90 days unless necessary investigation or protective services activity continues. If an investigation remains open after 90 days, the investigator must indicate a reason why the investigation aged over 90 days. If an investigation remains in open status 60 days after the intake, the supervisor must review the investigation with the assigned worker at that time and review it again at least every 30 calendar days after that for the duration of the investigation.

Mandated reporters and their employees must provide relevant records in their possession to APS or law enforcement upon request, unless otherwise prohibited by law. *RCW 74.34.035(10)*. A financial institution (employees are not mandated reporters) may provide access to or copies of records that are relevant to suspected financial exploitation or attempted financial exploitation of a vulnerable adult to APS, law enforcements, or the prosecuting attorney's office either as part of a referral or at the entity's request. *RCW 74.34.220(4)*.

DISPOSITIONS

The standard of evidence used is preponderance of evidence. Preponderance of evidence means that it is more likely than not that something happened or exists.

There are three types of investigative findings:

- Substantiated—a preponderance of the evidence indicates that, more likely than not, abuse, abandonment, neglect, self-neglect or financial exploitation occurred.
- Unsubstantiated—a preponderance of the evidence indicates that, more likely than not, abuse, abandonment, neglect, self-neglect, or financial exploitation did not occur.
- Inconclusive—the evidence is unreliable, not credible, unavailable, or insufficient to determine at this time whether or not abuse, abandonment, neglect, self-neglect, or financial exploitation occurred, on a more probable than not basis.

A final finding means the DSHS's determination of substantiation of abandonment, abuse, financial exploitation or neglect is upheld through the administrative appeal process or is not timely appealed to the office of administrative hearings.

When the finding is final, designated regional staff will enter the perpetrator into a registry.

The DSHS maintains a registry of final findings and, upon request of any person, may disclose the identity of a perpetrator.

APS provides different types of information regarding the outcome of the investigation based on the recipient's role in the investigation, statute and administrative codes.

- APS provides some notifications routinely and some are provided upon request.
- Information may be provided verbally, or in writing via a letter or outcome report.

- All outcome reports must not disclose the identity of the reporter or any witnesses.
- Outcome reports are faxed, mailed or e-mailed per local procedures to pre-identified recipients.

Some notifications include:

- For alleged victims, the initial finding will be disclosed verbally and upon request, APS can provide a copy of the outcome report.
- For the unsubstantiated or inconclusive findings, the alleged perpetrator will receive verbal communication and upon request can receive a courtesy letter. For substantiated findings, the alleged perpetrator will be notified via regular and certified mail, and if necessary, personal service.
- Law enforcement will receive an APS outcome report when the finding is substantiated and upon request can get an outcome report for unsubstantiated or inconclusive findings.

In a manner consistent with confidentiality requirements concerning the vulnerable adult, witnesses, and reporter, APS may provide notification of a substantiated initial finding to:

- Other divisions within the department
- The agency or program identified under RCW 74.34.068 with which the alleged perpetrator is associated as an employee, volunteer or contractor
- Other investigative authority consistent with chapter 74.34 RCW
- The facility in which the incident occurred
- The appropriate licensing agency

POST-INVESTIGATIVE SERVICES

AUTHORITY

APS provides protective services to vulnerable adults. These services include: facilitating access to the legal system and/or law enforcement; and providing or facilitating access to needed and desired services during an investigation (unconfirmed) or upon an initial finding of substantiated abuse, abandonment, neglect, self-neglect or financial exploitation.

The alleged victim and/or legal representative (guardian) must provide written consent prior to the provision of protective services.

Examples of protective services are:

- Referrals to community agencies

- Referrals to a protective payee
- Relocation to a facility
- Referrals to medical or psychological evaluation

The alleged victim or legal representative has the right to withdraw or refuse APS services. A written consent after being fully informed about the services and right is required before services can be rendered.

Services are not provided to family members or the alleged perpetrator.

APPROACH

Protective services must be provided in the least restrictive environment appropriate and available to the vulnerable adult protective services may be provided after APS determines:

- The services are necessary to protect the alleged victim from harm resulting from abuse, abandonment, neglect, self-neglect, or financial exploitation; and
- There are no other adults currently involved with the alleged victim who are willing and capable of providing the assistance to protect the alleged victim.

APS can utilize limited state funding, that may be used for protective services, such as in-home care or facility placement, up to a cumulative maximum of 90 days during any 12-month period of time.

Intervention services, another source of limited state funding, include, but are not limited to:

- Certified public accountant (CPA) or forensic accountant to aid in the investigation of financial exploitation (this service does not require direct client contact)
- Capacity evaluations when it is difficult to determine if a person is at significant risk of personal or financial harm because of diminished capacity. If you need to request a capacity evaluation, do so prior to any court involvement.
- Home environment evaluations (e.g., occupational therapist)
- One-time home hazardous cleanup (this service does not require direct client contact)
- Medical consultation not available through Medicaid or waiver services
- Nursing rehabilitation evaluation
- Physical or occupation therapy evaluation

QUALITY ASSURANCE

All case documentation should ensure clarity, accuracy and adhere to the principles outlined in policy. Principles include but are not limited to, the use of journalistic recording, objective language, use of correct grammar, and factual, non-judgmental information.

APS documentation related to intake, investigation, and protective services is maintained electronically. Investigations are retained for 35 years.

APS performs quality assurance (QA) on the regional and headquarters (HQ) levels, placing reviews in the Quality Assurance Monitor Tool. It is a formalized process with a yearly schedule.

HEADQUARTERS QA PROCESS

- The headquarters quality assurance unit pulls a statistically valid sample for each regional area based on the combined number of completed screened-in intakes, screened-out intakes, investigations and closed no-APS investigations that were processed for each region within a 12-month period.
- An entrance letter is sent to each region at the beginning of the QA monitoring period.
- A regional exit conference is conducted at the completion of the review.
- The region has 30 calendar days to make required corrections for remediation.
- APS HQ QA Program Managers conduct a 30-day review to document remediation.
- Issues identified in the 30-day QA review as not fully remediated must be addressed immediately by APS regional management staff.
- APS HQ QA Program Managers complete the regional Final Report Summary which is a summary of all QA Unit findings for the individual region.
- A Proficiency Improvement Plan (PIP) is developed by each region for all QA questions that did not meet the expected proficiency.
- The APS HQ QA Program Managers complete the statewide Final Report Summary which is a summary of all QA findings for the annual review for all regions.
- The summary report is published and posted.

Field QA Process

QA reviews are completed by APS supervisors and APS program managers. The following is the mandatory minimum yearly review standard for supervisors:

Intake Reviews:

- Selection of 5 intakes per year, per worker
 - 2 Screen In

- 3 Screen Out

Investigation Reviews:

- New staff (probationary/trial service period): selection of 6 investigations per year, per worker (3 completed in the first 6 months)
 - 2 Unsubstantiated
 - 2 Inconclusive
 - 2 No APS
- Established staff: selection of 4 investigations per year, per worker
 - 1 Unsubstantiated
 - 2 Inconclusive
 - 1 No APS

The mandatory minimum quarterly monitoring standard for program managers in each region is as follows:

- 10 "Closed No-APS"
- 10 Investigations (5 Unsubstantiated & 5 Inconclusive)

West Virginia

Name of Agency	Department of Health and Human Resources
Name of Program	Adult Protective Services
Data Sources	NAMRS Agency Component Data FFY2020 Report Adult Protective Services Policy July 2015, WV Code §9-6

CONTEXT

ADMINISTRATION

The West Virginia Adult Protective Service Program operates under West Virginia Code §9-6-1 through §9-6-16. It is a state-run program within the Department of Health and Human Resources (DHHR). APS conducts investigations of reports of abuse, neglect and exploitation in homes or facilities and provides appropriate services and supports based on the conclusions drawn from the investigation.

SCOPE

APS investigates reports of maltreatment for any adult who is age 18 and older, or younger than age 18 and legally emancipated, and who is functionally disabled due to a mental or physical disability. APS investigates reports for individuals whether they are living in their own home or a residential facility, such as a nursing home or any type of adult foster care.

APS investigates reports of abuse, neglect or financial exploitation resulting in neglect by others and from self-neglect. Appendix B provides the definitions of maltreatment types.

CONFIDENTIALITY

Individuals involved in APS reports have the right to have certain information about them that APS has in their records kept private and confidential.

Reporters' information and any potentially identifying information about the referent is kept confidential except for the release of information to the prosecuting attorney and law enforcement officials.

Summaries concerning substantiated reports of maltreatment of adults may be made available to:

- Any person determined to be the perpetrator of the maltreatment.
- State or regional official investigating the report.

- Any person engaged in bona fide research or auditing, as defined by the department. However, information identifying the subjects of the report may not be made available to the researcher.
- Agents from other states with jurisdiction to investigate known or suspected maltreatment of vulnerable adults.
- Professional providing services or diagnoses to the vulnerable adult.
- A hearing officer who needs this information to make a determination.

The identity of the reporter can only be released with that person's written consent, other than to APS employees or appropriate prosecuting attorney or law enforcement agency.

All reports of abuse, neglect or exploitation of vulnerable adults, including records generated as a result of such reports, may be made available to:

- APS employees
- Legal or law enforcement personnel
- State advocacy personnel
- The victim
- The victim's legal representative, unless he or she is the alleged perpetrator

GUIDING PRINCIPLES

Clients involved in an Adult Protective Services (APS) investigation or a case open for APS services, have certain rights, including:

- *The right to object to someone coming into your home without your permission to conduct an investigation. If you refuse a face to face interview, law enforcement will be contacted for assistance and court intervention may be necessary to complete the investigation.*
- *The right to have certain information about you that APS has in their records kept private and confidential.*
- *The right to discuss the situation with the Adult Services Supervisor if you have concerns with the manner in which the investigation was conducted.*
- *The right to refuse APS services, unless deemed incompetent by a court of law, and the right to know what may happen if you refuse; however, the APS worker is mandated by WV Code to conduct the investigation.*
- *The right to have a decision made about you, free from discrimination because of your age, race, color, sex, mental or physical disability, religious creed, national origin or political beliefs.*
- *You may have the right to request certain help for you if you have disabilities as defined by the Americans with Disabilities Act, when they are needed to*

help you with any hearing, vision or speech impairments during the APS process.

- *The right to know if there will be an open Adult Protective Services case.*

INTAKE

REPORTERS

Mandatory reporters are required to make a verbal report immediately to Centralized Intake and to follow this verbal report within 48 hours with a written report submitted to the local DHHR on a specified reporting form. Dependent on the circumstances of the allegations, copies of the completed written report must be also distributed to various others – to the state/regional ombudsman, Office of Health Facility Licensure and Certification (OHFLAC), and the facility administrator if the alleged victim is a resident of a nursing home or other residential facility; to the local medical examiner or coroner and law enforcement in case of death of the alleged victim and if abuse or neglect is believed to have been a contributing factor to the death; and to law enforcement and the prosecuting attorney in cases of violent crime, sexual assault, domestic violence, or death.

The following are mandatory reporters:

- Medical professionals
- Dental professionals
- Mental health professionals
- Christian Science practitioners
- Religious healers
- Social workers, including those employed by the DHHR
- Law enforcement officers
- Humane officer
- State or regional ombudsman, or
- Any employee of a nursing home or other residential facility.

Requirements for mandatory reporters apply regardless of whether the alleged victim resides in his/her own home, the home of another individual, or an institutional/facility setting.

PRIORITIES

After the intake worker gathers all referral information and documents it in Families and Children Tracking System (FACTS), a search of the FACTS system must be completed to determine if there are other referrals/investigations/cases for the identified client. If so, the new referral is associated with other records as appropriate. The referral is then forwarded to

the appropriate Adult Services supervisor. The supervisor then determines the required response time for the alleged victim/client from among the following response time options:

- Immediate Response—zero (0) to two (2) hours: When an emergency situation presents a substantial and immediate risk of death or serious injury to an incapacitated adult, a face-to-face contact with the alleged victim must be made within two (2) hours.
- Response—Within seventy-two (72) hours: When an emergency situation does not currently exist but could, without prompt intervention, a face-to-face contact with the alleged victim must be made within seventy-two (72) hours.
- Response—Within fourteen (14) days: When an emergency situation does not currently exist and/or is not expected to develop without immediate intervention, a face-to-face contact with the alleged victim must be made within fourteen (14) days.

INVESTIGATION

AUTHORITY

Whenever possible and appropriate, APS should coordinate conducting investigations of alleged abuse and/or neglect with other applicable state and federally authorized entities such as OHFLAC, Office of Behavioral Health and Health Facilities, Medicaid Fraud, State and Regional Long-Term Care Ombudsman, law enforcement, patient advocates in state operated behavioral health facilities, and the identified Protection and Advocacy Agency (Disability Rights of WV). These agencies are required to cooperate with each other for the purposes of observing, reporting, investigating and acting on complaints of abuse or neglect.

The medical examiner's office sometimes contacts local staff to see if a report of abuse or neglect has been made on one of their clients; supervisors and staff are required to work with the medical examiner's office and provide them with the necessary information. Reporter information is never divulged.

An individual involved in an APS report has a right to object to someone coming into his or her home without permission to conduct an investigation. If a face-to-face interview is refused, law enforcement will be contacted for assistance and court intervention may be necessary to complete the investigation. The individual has the right to discuss the situation with the Adult Services supervisor if he or she has concerns with the manner in which the investigation was conducted.

CASE INITIATION

The recommended order for completing the interviews includes interviewing the alleged victim first, to obtain their account and to view injuries. The APS worker completes a face-to-face contact with the alleged victim within the assigned timeframe. If this is not possible, the

worker documents the reasons in FACTS. The APS worker provides the handout “Client Rights during the Adult Protective Service Process,” to the alleged victim and his or her decision maker (guardian/conservator) if applicable and briefly explains the content.

WV notifies mandated reporters via letter if a report is accepted for investigation or not.

CONDUCTING INVESTIGATION

Interviews are recommended to be conducted in a certain order to ensure that the information obtained is as factual as possible. The recommended order for completing the interviews is as follows:

- Alleged victim - to obtain their account and to view injuries, if present
- Witnesses who may be able to report about the incident
- Other witnesses and/or collaterals
- Alleged perpetrator(s)
- Reporter may be contacted if additional clarification/information is required at any time during the interview process

The duties of the Adult Protective Services worker during the investigation include:

- Face-to-face contact with the alleged victim within the assigned timeframe. If this is not possible, document the reasons in FACTS.
- Provide the handout “Client Rights during the Adult Protective Service Process,” to the alleged victim and his or her decision maker (guardian/conservator) if applicable and briefly explain the content.
- The worker must review or attempt to review the most recent or Uniform Power of Attorney or guardian/conservator if there is one and record their efforts in case contacts.
- Never reveal the identity of the reporter except when notifying legal or law personnel of a substantiated referral or under order of the court.
- Involve relevant individuals/service providers as needed.
- Explain the reasons behind actions taken by the worker.
- Contact the alleged perpetrator(s) regarding the allegation(s) and all potential witnesses and collaterals.
- Identify him/herself as a worker from the West Virginia Department of Health and Human Resources.
- Briefly describe the abuse or neglect allegations to the alleged victim.

- If permission to conduct the interview(s) is denied, the worker will explain the need to involve the supervisor. The supervisor or worker will consult with Adult Services legal counsel on how to gain access to interview the alleged victim.
- Provide the handout “Alleged Perpetrator’s Rights during the Adult Protective Service Process” to the alleged perpetrator or his or her guardian/conservator and briefly explain the content and clarify any questions the alleged perpetrator has about their rights.
- If the alleged perpetrator refuses to be interviewed face-to-face, but opts for a telephone interview, the worker will mail the Alleged Perpetrator’s Rights or verbally explain the rights if the alleged perpetrator refuses to provide a home address.
- Explain to the alleged perpetrator that a home address is necessary for notification if the findings are substantiated. If the alleged perpetrator refuses to provide a home mailing address, the worker must explain that a notification letter will not be sent regarding the findings, if substantiated, but the findings may affect future employment. The worker must document in FACTS if the alleged perpetrator refuses to provide a mailing address. Unless the alleged perpetrator gives permission, the worker must not mail the notification letter to the alleged perpetrator’s place of employment.
- If the alleged perpetrator refuses to be interviewed, the worker must inform them that the findings will be completed without their input. A certified letter may be sent as a means of verifying that attempts were made to get their information on record.
- If the alleged perpetrator or victim are known to have legal counsel, the worker must ask permission to continue the interview. If permission is denied, the worker will consult with their supervisor and then potentially the Adult Services legal counsel for advice on how to proceed.
- Attempt to privately interview all relevant individuals. Conduct the investigation in the county that the abuse and/or neglect occurred, even if it is not the alleged victim’s county of residence. Workers from both counties will coordinate and cooperate when necessary.

At the conclusion of each interview, the worker should obtain a written summary of the individual’s account of the incident and the events surrounding it. The individual should sign and date the statement after they have read it thoroughly and made any necessary corrections.

Once the referral has been assessed, a social worker must conduct a risk assessment. It includes the collection of identifying information (demographic information), the client’s living arrangements, the client’s functioning (including an assessment of their strengths, needs and supports), the physical and medical health of the client, the client’s mental/emotional health, the client’s current financial status, educational/vocational training of the client, past and present employment history, military history, and the client’s legal information. This risk

assessment and investigation must be completed within 30 days, or 60 days for case including financial exploitation.

DISPOSITIONS

The disposition shall be based on all the information gathered during the investigation and completion of the risk assessment. From this information, the social worker will determine if the referral was “substantiated” or “unsubstantiated”. If at least one allegation of abuse/neglect is substantiated and the client is eligible for APS, the referral must be substantiated.

When the social worker completes the risk assessment and concludes the investigation he or she will then submit the risk assessment, along with a recommendation about disposition of the investigation, to the supervisor for approval. The possible dispositions available to the social worker are:

- Close the investigation and open an APS case
- Close the investigation and open an APS Preventive Services case
- Close the investigation and refer to other resources (internal/external to DHHR)
- Close the investigation with no additional action needed
- Incomplete - in some instances it will not be possible to complete an investigation if the alleged victim has moved to another state, died, or cannot be located

Criminal penalties are due for any person, caregiver, guardian or custodian who, directly or indirectly, abuses, neglects or financially exploits an incapacitated adult or elder person.

Alleged perpetrators have certain rights, including:

- *The right to object to someone coming into your home without your permission to conduct an investigation.*
- *The right to have certain information about you that APS has in their records kept private and confidential.*
- *The right to discuss the situation with the Adult Services Supervisor if you have concerns with the manner in which the investigation was conducted.*
- *The right to file a grievance if you disagree with a substantiated allegation.*
- *The right to have fair and reasonable decisions made about you, free from discrimination because of your age, race, color, sex, mental or physical disability, religious creed, national origin or political beliefs.*
- *You may have the right to request certain help for you if you have disabilities as defined by the Americans with Disabilities Act, when they are needed to help you with any hearing, vision or speech impairments during the APS process.*

- *The right to know if the allegations against you as an alleged perpetrator were substantiated, if you provide the Department of Health and Human Resources with a complete mailing address.*

Based on the extant materials, no information is available on the standard of evidence that is used to substantiate maltreatment.

POST-INVESTIGATIVE SERVICES

AUTHORITY

A determination is made whether the client is eligible for Adult Protective Services or for Adult Preventative Services. To be eligible for Protective Services, the adult must meet the criteria of a vulnerable adult (18 years of age or older or, legally emancipated and unable to provide for the basic necessities of life due to his/her physical or mental disabilities), have been neglected or abused and be alone or without anyone available to support or protect him or her. For Preventive Services, the adult must meet the criteria of a vulnerable adult and be in probable danger of being neglected or abused.

While DHHR is mandated by state law to protect vulnerable and incapacitated adults and facility residents, it must not infringe upon their rights while doing so.

A client who has decision-making capacity may accept or refuse certain intervention and services when offered. In general, the client's consent must be obtained before services are provided. However, sometimes consent cannot be obtained, such as when a client appears to be incapacitated in an emergency situation and is unwilling to remove themselves from danger or be removed by others. It may be necessary to pursue legal action in such a situation in order to protect the individual.

Based on the extant materials, no information is available about services provided to perpetrators or family members.

APPROACH

Any intervention provided by DHHR must be at the least restrictive level possible and appropriate to meet the needs of the individual while assuring the highest degree of autonomy and self-determination possible. The principle is well established both in law and policy that the least intrusive means of intervention should always be used in the provision of services to adults. Intervention is to begin with the least intrusive approach that is appropriate to meet the client's needs and move to most intrusive option only when necessary. The client and/or their court appointed representative should be presented with options, educated about the benefits and consequences of each, and permitted to make decisions.

For each individual whose case has been opened for Adult Protective Services/Preventive Services, a comprehensive assessment must be completed which is used as the basis for the client's service plan. Completion of the comprehensive assessment involves interviews with the client and other significant individuals. The social worker will document all findings from the comprehensive assessment in FACTS and submit it, along with the service plan developed as a result of the assessment findings, for approval by the supervisor within thirty (30) calendar days after the case is opened.

Development of the service plan is to be based on the findings from the assessment processes (i.e. investigation, risk assessment, comprehensive assessment, and case review) as well as any specific requirements ordered by the court, and should be a collaborative process between the social worker, the client, and providers or legal guardian if appropriate. Service planning must be directed toward remedy of the identified abuse/neglect and/or alleviating the risk of abuse/neglect to the adult. In developing a service plan, the social worker should consider the strengths and capabilities of the client and their support system as well as the current circumstances. A plan can also be created to reduce risk and assure current safety of the adult, while also considering long-term planning and preparation for eventual closure of the APS intervention.

After approval by the supervisor, a copy of the service plan is to be printed and required signatures obtained from the client or his/her legal representative and all other responsible parties identified in the service plan.

The primary service provided to clients receiving Adult Protective Services or APS Preventive Services is case management, which includes identification of problem areas/needs, identification of appropriate services and resources to address the identified problems/needs, referral of the client to appropriate service agencies, and coordination of service delivery. APS case management is voluntary and cannot be forced upon an unwilling client who has not been determined to be incapacitated. Once the case management goal of linking clients with appropriate supportive services has been accomplished, the case is to be closed for Adult Protective Services. Both APS and APS Preventive Services are short-term services and frequent monitoring is essential. An APS case may be open for a period not to exceed 12 months and an APS Preventive case may be open for a maximum of six 6 months. If it is not possible to complete all necessary tasks to resolve the abuse/neglect or risk within these time frames, an extension must be requested by the worker to exceed the allowed time.

Different timeframes are established for Adult Protective Services and Adult Preventive Services:

- ***Adult Protective Services*** - *Formalized case review must occur at three (3) month intervals following opening of the APS case, and prior to case closure at twelve (12) months. While this is the minimum standard, the social worker*

must have a face-to-face contact with the client at least once monthly and a case review may be completed if circumstances warrant. A review can and should be completed any time there is a significant change in the client's circumstances. In the event the abuse/neglect cannot be resolved within the allowed twelve (12) month period, the social worker must request an extension. This extension request must be submitted to the supervisor according to the established protocol, prior to the end of the allowed twelve (12) months.

- **APS Preventive Services** - *APS Preventive services are generally used in situations where a client resides in their own home and meets the three (3) specified eligibility criteria for APS Preventive services and they are at risk of an APS situation developing without intervention APS Preventive services are short-term time limited services that may be provided for a maximum of six (6) months. Due to the short-term nature of APS Preventive services, case review must occur on an ongoing basis. At a minimum, a formal review is to be completed at three (3) months and prior to case closure. In the event the risk of abuse/neglect cannot be resolved within the initial six (6) month period, the social worker must consult with the supervisor to evaluate the need for additional time. A maximum of an additional thirty (30) days are available.*

The decision to close the Adult Protective Services or Preventative Adult Protective Services (PAPS) case is determined through the case review process. When the client is no longer at risk of abuse/neglect, requests closure (having capacity to do so), or dies, the social worker will recommend closure of the APS/PAPS case. A final assessment must be completed as part of the case review process prior to closure of the case, reviewing the elements that led to opening of the APS or APS Preventive case and evaluating them based upon current information. The social worker must document the results of this assessment in FACTS and submit to the supervisor for approval of recommendation for case closure. Upon supervisory approval, the case is to be closed for APS/PAPS.

When the need for aftercare is identified, the worker and the client will work together to develop an aftercare plan, if requested by the client, and other services will continue if appropriate.

QUALITY ASSURANCE

Centralized Intake is the primary decision-maker at the intake stage of the APS process. Centralized Intake's role includes ensuring that all referrals are appropriately considered to be assigned for a risk assessment or screened out, and for those assigned for assessment, determination of the required response time for the initial contact based on the degree of risk

indicated in the referral information. The APS supervisor is consulted any time an alleged victim or alleged perpetrator refuses to be interviewed and facilitates consultation with Adult Services legal counsel for how to gain access to these individuals.

At the conclusion of the investigation and completion of the risk assessment, the social worker will then submit the risk assessment, along with their recommendation about disposition of the investigation, to the supervisor for approval.

FACTS is the data collection system. Each individual contact is to be documented by the end of the next working day following completion of the contact. Information gathered on the risk assessment screen will populate forward to the comprehensive assessment screen in FACTS if it has been approved before the case connect (or information will not populate), as well as information in the client screens. Any information that was not gathered during the risk assessment phase or information that has changed since the risk assessment was completed must be gathered in the case focus and documented on the appropriate screens in FACTS.

All contact with and observation of the caregiver, alleged victim, alleged perpetrator, witnesses, and collaterals in an Adult Protective Service investigation must be accurately, carefully, and thoughtfully documented. When a perpetrator is prosecuted as a result of a substantiated Adult Protective Service complaint, the social worker may be the primary source of evidence for the court hearing. Information documented in the case record may be used in the court's determination about the guilt/innocence of the perpetrator, whether the crime is a felony or a misdemeanor, and the severity of the sentence imposed.

Based on the extant materials, no additional information is available about quality assurance activities.

Wisconsin

Name of Agency	Wisconsin Department of Health Services
Name of Program	Adult Protective Services
Data Sources	Section 46.90 and Chapter 55, Wisconsin Statutes Chapter 55 Manual: Application of Wisconsin APS Law and At-Risk Adult Related Statutes, October 2007 NAMRS Agency Component Data FFY2020 Report

CONTEXT

ADMINISTRATION

The Wisconsin Adult Protective Services (APS) system is county-based. However, both the Wisconsin Department of Health Services (the Department) and the counties have statutorily imposed duties relative to elder adults at risk (EAAR), adults at risk (AAR), and APS that are separate and distinct.

The county board in each county names agencies responsible for the reporting and response system for EAAR and AAR, respectively, Section 46.90 (2) and Section 55.043 (1d), Wis. Stats. Each county is also required to designate an APS agency responsible for providing protective services and protective placements to all individuals at risk regardless of age. Section 55.02 (2) (a), Wis. Stats. These responsibilities may reside in a single agency or separate agencies, and the county may further subdivide responsibility among multiple agencies. However, most counties combine the EAAR, AAR, and APS functions in the same agency and collectively refer to them as the county APS unit. The functions of these agencies or units are not uniform among the counties.

The Department has the following duties relative to county EAAR and AAR agencies:

- Developing a plan to assist lead agencies in responding to reports of abuse, financial exploitation, neglect, and self-neglect.
- Preparing and distributing sample Departmental report forms for county use.
- Collecting statistical information from each county pertaining to reported cases of abuse, financial exploitation, neglect, and self-neglect.
- Developing and disseminating aggregate information on and agency reporting of abuse, financial exploitation, neglect, and self-neglect.

Sections 46.90 (8) and 55.043 (8), Wis. Stats.

In addition, the Department is charged with the following duties relative to the protective service system:

- Cooperating with counties to develop and operate a coordinated, statewide system for protective services and protective placements.
- Monitoring and supervising the implementation and operation of the system.
- Providing technical assistance to counties.
- Evaluating the protective service and protective placement systems.

Section 55.02 (1) (a), Wis. Stats.

SCOPE

An EAAR is any person age 60 or older who has experienced, is currently experiencing, or is at risk of experiencing abuse, financial exploitation, neglect, or self-neglect.

An AAR is any adult between the ages of 18 and 59 who has a physical or mental condition that substantially impairs their ability to care for their needs and who has experienced, is currently experiencing, or is at risk of experiencing abuse, financial exploitation, neglect, or self-neglect.

The Wisconsin APS system investigates physical abuse, emotional abuse, sexual abuse, treatment without consent, unreasonable confinement or restraint, financial exploitation, neglect, and self-neglect. Definitions for these types of maltreatment are in Appendix B.

In many cases, the county EAAR/AAR agencies do not investigate allegations in residential care communities and/or nursing homes unless there is imminent danger and a resident needs immediate protection, such as when a crime is suspected. County EAAR/AAR agencies will investigate when the alleged perpetrator is someone other than a caregiver, as defined by the Caregiver Misconduct Registry regulations, or another resident; for example, when the alleged perpetrator is a family member or surrogate decision-maker.

The Division of Quality Assurance (DQA) in the Department is the regulatory agency that investigates licensed entities. EAAR/AAR agencies generally do not investigate reports of cases involving individuals covered by the Caregiver Misconduct Registry and refer those cases to DQA for investigation. DQA investigates abuse by caregivers (employees) in facilities and programs regulated by DQA. DQA maintains the Caregiver Misconduct Registry containing reports and findings in cases involving employees of covered entities, which may lead to other regulatory action by DQA, the Department, or another state agency.

CONFIDENTIALITY

Two types of documents are generated as part of the APS system: (1) “record,” which includes any document relating to the response, investigation, assessment, and disposition of a report of abuse, financial exploitation, neglect, or self-neglect; and (2) “Departmental report form,”

which includes documentation of a EAAR/AAR agency's response to or investigation of a report of abuse, financial exploitation, neglect, or self-neglect and is the information required to be submitted to the Department in the Wisconsin Incident Tracking System (WITS).

Both records and Departmental report forms are confidential and may only be released by the EAAR/AAR agency upon request when a statutory exception to the general rule applies.

Records may be released, under specific circumstances, to:

- The individual at risk who is the alleged victim named in the record,
- The legal guardian, conservator, or other legal representative of the individual at risk unless that person is the alleged perpetrator,
- Law enforcement officials or to a district attorney for investigations and/or prosecutions,
- The Department for investigations of deaths in specific types of facilities,
- An employee of the county department that is providing services to an individual at risk,
- A court, tribal court, or state governmental agency for a proceeding related to licensure or regulation of an entity,
- To the Department for management, audit, program monitoring, evaluation, billing, or collection purposes,
- The attorney or guardian ad litem for the individual at risk,
- A coroner, medical examiner, pathologist, or other physician investigating the cause of death of an individual at risk,
- Staff members of the state protection and advocacy agency (Disability Rights Wisconsin) or the Board on Aging and Long-Term Care,
- An agency that is legally responsible for the supervision of an alleged perpetrator,
- A grand jury, or
- Under lawful order of a court of record.

The identity of the reporter is confidential and must be deleted from any record prior to release. The identity of a reporter "may only be released with the written consent of the reporter or under a lawful order of a court of record."

Departmental report forms may be released, under specific circumstances, to:

- The individual at risk, the alleged perpetrator, or the alleged perpetrator’s attorney, but the identity of the reporter or any other person who might be endangered through disclosure must be deleted.
- To law enforcement or other public agency contacted when there is reason to believe the individual at risk may suffer or has suffered physical harm, irreparable injury, or death.
- To an individual, organization, or agency designated by the Department or as required by law for the purposes of management audits or program monitoring and evaluation.
- For research if certain conditions are met.
- Under lawful order of a court of record.
- To any agency or individual that provides direct services to an individual at risk.
- To the guardian of the individual at risk or the guardian of an alleged perpetrator, but the identity of the reporter or any other person who might be endangered through disclosure must be deleted.
- To law enforcement officials.
- To any government agency at any level in Wisconsin or another state that has a need for the form in order to carry out its responsibility to protect or provide services to an alleged victim of abuse, neglect, self-neglect, or financial exploitation.
- To a reporter who made a report in his or her professional capacity regarding action taken to protect or provide services to an alleged victim of abuse, neglect, self-neglect, or financial exploitation.

Even though an exception to the confidentiality of a Department report form applies, the form may not be released if:

- Release would be contrary to the best interests of the individual at risk or of a minor residing with the individual at risk, or release is likely to cause mental, emotional, or physical harm to the individual at risk or any other individual.
- Disclosure would jeopardize any ongoing or future criminal investigation or prosecution or would jeopardize a defendant’s right to a fair trial.
- Disclosure would jeopardize any ongoing or future civil investigations or proceedings or would jeopardize the fairness of such a legal proceeding.

GUIDING PRINCIPLES

The fundamental purpose and values of the Wisconsin APS system is *“to provide protection from abuse, exploitation and neglect, while at the same time, to the extent possible, using the least restrictive interventions and preserving individual rights.”*

The primary concern of county EAAR/AAR agencies is *“taking action that will most effectively prevent future abuse, neglect and exploitation of the alleged victim and of other individuals at risk.”* They are expected to remove the individual at risk from harm’s way and ensure

protection from future abuse, financial exploitation, neglect, or self-neglect in the least restrictive way.

The APS agency provides a mechanism for organizing, planning, and delivering court-ordered services to individuals at risk with serious and persistent mental illness, degenerative brain disorder, developmental disabilities, or like incapacities regardless of age. Individuals with these conditions, which are permanent or likely to be permanent, may have a need for protective services or protective placement to keep them safe from harm. A court-ordered protective placement is focused primarily on long-term residential care and custody of the individual. A non-institutional alternative is court-ordered protective services which, when delivered, serve the same purpose as protective placements. Protective placements must meet the same requirements as protective services as well as additional requirements applicable only to protective placements.

The individual is to be afforded the same rights as other citizens, to the maximum degree of feasibility and with the least possible restriction on personal liberty and exercise of constitutional rights consistent with due process, while, at the same time, be protected from abuse, financial exploitation, neglect, and self-neglect.

INTAKE

REPORTERS

For almost all situations involving abuse of individuals at risk, Wisconsin relies on voluntary reporting. Any person may report possible abuse if he or she is aware of facts or circumstances that would lead a reasonable person to suspect abuse has occurred. In all cases, the identity of the reporter and the report are confidential and protected by law.

Reporters will be voluntary reporters unless the reporter is considered a health care provider or human services workers as defined by Wisconsin law, *and* the reporter is working in a position under that license. In such a case, the reporter is considered to be a limited required reporter.

Limited required reporters must file an abuse report if the individual at risk is seen in the course of his or her professional duties *and* at least one of the following three conditions is present: (1) the individual at risk has requested that the reporter make the report; *or* (2) there is reasonable cause to believe the individual at risk is at imminent risk of serious harm and the individual is unable to make an informed judgment about whether to report the risk; *or* (3) other individuals at risk are at risk serious harm inflicted by the suspected perpetrator.

There is an exception to the above rule for limited required reporters. Reporting is not required if the professional believes that filing the report would not be in the best interest of the individual at risk and the reason for that belief is documented in the case file of the suspected victim.

PRIORITIES

At this time, Wisconsin has no priority level categories and requirements established for use by county EAAR/AAR/APS agencies. County agencies have discretion about how to screen out and triage reports of alleged abuse, financial exploitation, neglect, and self-neglect.

INVESTIGATION

AUTHORITY

The statutory authority to investigate reports involving EAARs and AARs is not identical.

- *An AAR agency may investigate and respond if it “has reason to believe that an [AAR] has been the subject of abuse, financial exploitation, neglect, or self-neglect.”*
- *An EAAR agency is required to either respond to or refer “every” report of “alleged abuse, financial exploitation, neglect, or self-neglect.”*

There is no “reason to believe” requirement for EAARs. While a response appears to be mandatory, there is no requirement that a “response” include any particular action, and an investigation is only required as part of the response “if necessary.”

However, if an agency that responds to a report involving an EAAR or an AAR has reason to believe that substantial harm, irreparable injury, or death may occur, the agency must request immediate assistance in either initiating a protective services or protective placement action under Chapter 55 or contact law enforcement (or other agency) as appropriate.

If the alleged victim or another person denies access to the home or interferes with the investigation or service delivery, the responding agency may use legal tools including “immediate forcible entry by law enforcement personnel, forcible entry by APS system staff under a court order, and use of a temporary restraining order and/or injunction.” If a request is made, law enforcement must accompany the agency investigator or provide other assistance as needed. “[EAAR/AAR/APS agencies are required to have policies on when referrals to law enforcement agencies will be made.”

Financial records must be produced by holders of such records without informed consent of the alleged victim for EAAR/AAR/APS agencies to review as part of an investigation.

EAAR/AAR/APS agencies are also given access to confidential health care records by a covered health care, service, or treatment provider without informed consent of the alleged victim for use in an investigation or service delivery. EAAR/AAR/APS agencies may obtain court orders to access records and other information needed for investigations. If an EAAR/AAR/APS

agency has probable cause to believe a crime has been committed, law enforcement may seek a warrant to get access to a residence and/or needed records.

A reporter may make a report to an EAAR/AAR/APS agency, the DQA in the Department, and/or a law enforcement agency. Each agency decides whether it will investigate and/or respond to the report. When more than one agency is involved, the agencies will typically work together.

Emergency protective services or placements may be provided for up to 72 hours without a court order if there is reason to believe the alleged victim or other people will incur a substantial risk of serious physical harm. If the alleged victim is not under guardianship, a petition for guardianship must be filed at the same time as the petition for protective services or protective placement. A probable cause hearing must be held within 72 hours of the filing of the petition, excluding weekends and legal holidays. Court-ordered emergency protective services can continue to be provided for up to 60 days pending final hearing on the petition.

The Chapter 55 Manual provides extensive information on court-ordered protective services and protective placements as well as guardianship.

CASE INITIATION

As discussed above, EAAR agencies are required to respond, by investigating or referring the report to another agency for investigation, every report of abuse, financial exploitation, neglect, or self-neglect of an EAAR. In contrast, AAR agencies have discretion in deciding whether to respond by investigating or referring a report. Typically, AAR agencies respond if they have reason to believe maltreatment of the AAR has occurred. County EAAR/AAR agencies set their own policies based on local conditions and needs. “Individual social workers, or teams, must then decide within those policies whether to make a response, and how far to carry it.” The individual agencies send a report to the Department through WITS with information about the local agency’s response (or lack of response) to reports of abuse, financial exploitation, neglect, or self-neglect.

If an EAAR/AAR agency receives a report of “an individual at risk who is a client of an entity that is covered by the caregiver misconduct reporting requirements, and if the person suspected of perpetrating the abuse, exploitation or neglect is a caregiver (employee of a covered entity) or non-client resident of the entity, the [EAAR or AAR] agency is required to refer the report to [the Department] for investigation” within 24 hours after the report was received. An EAAR/AAR agency’s investigation of a report, that is not referred to the Department, must commence within 24 hours after the report was received, excluding weekends and legal holidays.

Wisconsin requires the EAAR/AAR agency to refer a report of abuse, financial exploitation, neglect, or self-neglect to another entity – generally, another county – when it has a potential conflict of interest in handling the case.

CONDUCTING INVESTIGATION

Counties are given flexibility in carrying out their investigative and service delivery functions, allowing policies to be made locally based on local needs and conditions. An EAAR/AAR agency's response to a report may include a visit to the residence of the individual at risk; observation or an interview with the individual (preferably in private); an interview with the guardian or healthcare power of attorney agent, if activated, and with any caregiver of the individual; a review of treatment and patient health care records of the individual at risk; or a review of financial records of the individual at risk maintained by financial institutions, entities, caregivers, or immediate family members. An EAAR/AAR agency may also transport the individual at risk for medical examination by a physician under certain circumstances.

Wisconsin law does not dictate a timeframe in which an investigation must be completed, nor are there required timelines or other criteria for case closure. The role of county-based APS program supervisors in reviewing and approving an investigation or case prior to closure is left to each county. Local EAAR/AAR/APS agencies set their own policies based on local needs and conditions.

DISPOSITIONS

APS investigations will be designate allegations of abuse, financial exploitation, neglect, or self-neglect as either substantiated, unsubstantiated, or unable to be substantiated. However, there is no agreed upon definition for these terms and it is left to each county EAAR/AAR/APS agency to determine whether a case is substantiated, unsubstantiated, or unable to be substantiated.

EAAR/AAR/APS agencies must submit a Departmental report form to the Department through WITS, "summarizing each abuse, neglect or exploitation report it receives and the response it makes, regardless of the extent of the response made or of whether the report is considered substantiated."

There are additional actions, including offering services (see below) or making referrals, that may be taken by EAAR/AAR/APS agencies upon responding to a report.

If necessary, emergency action may be taken, such as emergency protective services or emergency protective placement, if such action is provided in the least restrictive environment and in the least restrictive manner consistent with the needs of the individual to be protected and with the resources of the county department.

Cases may be referred to law enforcement and/or the district attorney if there is reason to believe a crime has been committed. Cases may also be referred to local or state regulatory and licensing agencies (for residential facilities, financial institutions, and professionals), and local code enforcement entities. Finally, cases involving individuals at risk residing in facilities will be referred to the DQA in the Department for investigation, as described above.

POST-INVESTIGATIVE SERVICES

AUTHORITY

The EAAR/AAR/APS agency, upon responding to the report, is required to determine whether the alleged victim is in need of services. The determination about the need for services is made at the same time as, or before, the investigation is conducted, and services are not dependent on a finding that maltreatment occurred.

“Competent individuals who are not harming other people, do not meet standards for commitment and are not committing crimes have a right to make their own choices and to refuse treatment and services, even if their choices put them at substantial risk of harm.” Under Wisconsin law, an individual at risk has a right to refuse to accept services unless a guardian authorizes services. The agency must inform the individual of that right before providing services.

Based on extant materials, no information is available on services to family members or perpetrators.

APPROACH

Wisconsin law requires that placement, services, and interventions be provided in the least restrictive environment and the least restrictive manner consistent with the needs of the individual at risk. Factors to consider in evaluating whether a service option is less restrictive than other service options include how well an option protects various individual freedoms, allows the individual to retain the same rights as other citizens, integrates the individual into the community, and minimizes stigma and adverse social consequences. Voluntary services are always preferable to involuntary services.

Based on the extant materials, no information is available on state budget inclusion of funds for the APS program to spend on purchased services for victims.

QUALITY ASSURANCE

The Department developed and maintains the web-based Wisconsin Incident Tracking System, known as WITS, into which counties enter information about alleged cases of abuse, financial exploitation, neglect, and self-neglect. The system collects initial information about the allegations and referral, information about the EAAR/AAR and the alleged abuser, and a report

summary (incident result, action taken, services planned). The Department receives no personally identifiable information in WITS but uses the statistical summary information to formulate reports and make program changes. Sections 46.90 (8) and 55.043 (8), Wis. Stats.

Except when alleged abuse occurs in a Department-regulated facility, the Department has no investigatory authority in cases of alleged abuse, financial exploitation, neglect, or self-neglect of EAARs or AARs.

The EAAR/AAR/APS agency is required to maintain a record of each report, including the response, investigation, assessment, and disposition. As mentioned previously, EAAR/AAR/APS agencies must submit a report to the Department through WITS that summarizes “each abuse, neglect or exploitation report it receives and the response it makes, regardless of the extent of the response made or of whether the report is considered substantiated.”

Although the Department is responsible for monitoring and evaluating the implementation and operation of the statewide APS system, quality assurance activities for EAAR/AAR/APS agencies if any, are developed and implemented at the county level.

Wyoming

Name of Agency	Department of Family Services
Name of Program	State Level Adult Protection Team
Data Sources	Wyoming Department of Family Services, Adult Protective Services Policy, Adult Protection Teams and Adult Fatalities NAMRS Agency Component Data FFY2016 Report

CONTEXT

ADMINISTRATION

The Wyoming Adult Protective Service Program operates under Wyoming Statutes 35-20-101 through 35-20-116. It is a state-administered program provided by the Department of Family Services. **The Services Division** receives complaints of child or adult abuse or neglect and assists law enforcement in those types of investigations. The goal of adult protective services is to ensure that safety and basic needs are being met in the least restrictive environment. APS serves vulnerable adults which means any person 18 years of age or older who is unable to manage and take care of himself or his property without assistance as a result of advanced age or physical or mental disability. Any eligible adult who is being abused, neglected, abandoned, exploited, intimidated, or is self-neglecting can receive APS services.

SCOPE

A vulnerable adult is any person 18 or older who is unable to manage and take care of himself or herself or his or her money, assets or property without assistance as a result of advanced age or physical or mental disability.

DFS investigates concerns for vulnerable adults whether they live in their own homes, hospital or nursing homes, or any other kind of residential care including boarding houses, homeless shelters, adult group homes.

When DFS receives a report concerning a facility, the DFS Caseworker notifies other agencies depending on the type of report:

- *Medical Fraud Control Unit of the Attorney General's Office for Medicaid for*
 - *All reports of abuse, neglect, exploitation, financial fraud in facilities with a Medicaid nexus;*
- *Behavioral Health, Office of Health Care Licensing and Survey or Aging Division, for*

- *All allegations of abuse, neglect and/or misappropriation of resident's property, and all licensing violations in licensed, certified, and/or non-certified facilities in their jurisdiction (including the Wyoming State Hospital)*
- *Behavioral Health, Developmental Disabilities Division*
 - *For reports involving a facility licensed through that Division;*
- *Behavioral Health, Mental Health Division,*
 - *For any residential program under the jurisdiction of the Division and the Wyoming State Hospital; (Wyoming Pioneer Home, Wyoming State Training School, Wyoming Retirement Center and the Veteran's Home);*
- *Long-Term Care Ombudsman*
 - *For complaints or reports from residents in facilities;*
- *State Board of Nursing*
 - *For any report that involves a registered nurse, licensed practical nurse or certified nurse assistant; and*
- *Other licensing boards e.g. Occupational Therapy or Professional Teacher Standards Board.*

Maltreatment definitions can be found in appendix B.

CONFIDENTIALITY

All records concerning reports and investigations of vulnerable adult abuse, neglect, exploitation, intimidation, abandonment or self-neglect are confidential with the following exceptions. The record should be made available to the vulnerable adult who is the subject of the record, his or her legal guardian, a healthcare surrogate or agent under an advance healthcare directive or the representative of a deceased vulnerable adult. The department may give access to otherwise confidential records to adult protection personnel, legal, law enforcement or court personnel investigating or bringing action related to the report, or a physician or surgeon treating the vulnerable adult.

The identity of the person making the report is confidential and not subject to disclosure.

GUIDING PRINCIPLES

Based on the extant materials, no information is available whether the APS program has a defined set of ethical principles or policies to ensure the program is held to high standards of integrity.

INTAKE

REPORTERS

Any person or agency who has knowledge that a vulnerable adult has been or is being abused, neglected, exploited, intimidated or abandoned, or is committing self-neglect has the duty to report this. If a person with this knowledge knowingly fails to report it, he or she is guilty of a misdemeanor punishable by imprisonment for not more than one (1) year, a fine of not more than one thousand dollars (\$1,000.00), or both.

PRIORITIES

If the DFS Supervisor determines that immediate response is needed, in-person contact will be immediately attempted and made within 24 hours of the referral. Immediate responses are needed when there is a major injury, medical or psychiatric emergency, threat or potential for suicide, homicide, abandonment or flight, or manufacture of methamphetamines.

If immediate response is not needed, the DFS Supervisor decides within 24 hours to accept or reject the referral. If the referral is accepted, it is assigned to the Investigation Track, Assessment Track, or Prevention Track.

- Investigation Track: The referral meets the definition of abuse and/or neglect, and the referral includes serious situations such as major injury, acute medical condition, fatality, sexual abuse, abandonment or exploitation to the degree that criminal charges and/or removal of an adult from his or her home will be necessary.
- Assessment Track: The referral meets the definition of abuse and/or neglect but does not meet the criteria for the Investigation Track.
- Prevention Track: There are no allegations of abuse and/or neglect but risk factors and services to the vulnerable adult could prevent abuse and/or neglect from occurring.

The DFS Supervisor documents in the narrative why the case was assigned under the specific track.

The DFS Caseworker shall attempt in-person contact with the vulnerable adult within three calendar days and offer services. In-person contact may be extended if the DFS Caseworker is unable to make contact and with DFS Supervisor approval.

When the DFS District Manager receives notification of a fatality alleged to be the result of abuse, neglect, exploitation, abandonment, or self-neglect, he or she shall review all materials related to the case within seven days, including law enforcement reports, coroner's report, fire marshal's report, when applicable and any medical/autopsy reports.

INVESTIGATIONS AND ASSESSMENTS

Investigations and Assessments are implemented differently, so the policies and practices for these are described separately.

INVESTIGATION TRACK

AUTHORITY

DFS's legal duty to investigate reports overrides any preliminary objections by the vulnerable adult. If the vulnerable adult or the alleged perpetrator(s) refuses to cooperate with the investigation or the DFS Caseworker is denied access, he or she shall request assistance from law enforcement or the District/County Attorney to gain access.

If the DFS caseworker then determines that the vulnerable adult possesses the capacity to consent to or to refuse services, he or she shall respect the individual's right to refuse any further APS interventions.

The DFS Caseworker will initiate a request for emergency APS services, emergency commitment under the Mental Health statute, or appointment of a guardian or conservator if the vulnerable adult shows scores in the moderate to high-risk category on the Risk Assessment) and appears unaware of the consequences of the imminent emergency nature of the present situation.

CASE INITIATION

Within seven days of assignment, the DFS Caseworker shall complete an Investigation Plan (APS-17) documenting the interview team, interviewees and possible evidence to be gathered.

In-person contact with the vulnerable adult and the alleged perpetrator(s) shall then be made within 24 hours and no later than 3 calendar days of receipt of the referral. In cases that involve sexual abuse or in facility investigations, formation of the investigative team and investigative plan may take longer than 24 hours. If a delay of longer than 3 days for in-person contact with the vulnerable adult and alleged perpetrator is expected, the DFS District Manager or his/her designee must provide approval. If the DFS Caseworker has made a good faith attempt to contact the subjects of the referral, but cannot locate them, in-person contact is not required.

CONDUCTING INVESTIGATION

The Health Insurance Portability and Accountability Act (HIPAA) allows for covered entities to disclose protected health information related to victims of abuse, neglect or domestic violence. If the vulnerable adult either objects or is unable to consent to the disclosure, the entity may disclose protected health information but only that which is relevant to APS' involvement with the vulnerable adults' health care.

The DFS Caseworker administers the Risk Assessment (APS-7) for all cases, which allow for preliminary decisions about the vulnerable adult's capacity to consent and identify factors which may be negatively impacting the vulnerable adult's capacity to consent. Optional Assessments (APS Forms 8-11) may also be used to assist the DFS Caseworker in developing a more complete picture of the vulnerable adult's needs and abilities, but the DFS Caseworker should not make a formal determination of the vulnerable adult's abilities. Other screening tools that may be used include the Geriatric Depression Screening Tool (APS-11), Vulnerable Adult Safety Assessment (APS-12), Domestic Violence Screening Tool (APS-13) and the Mental Health Evaluation Referral Instrument (APS-14).

If a referral is originally assigned as an Investigation Track, it can be changed to the Assessment Track only if the DFS Caseworker determines that the criteria for the Investigation Track are not met and the DFS Supervisor approves the change. The reason for this change shall be documented in the case narrative. As soon as possible after a decision is made to change the track assignment, verbal notice shall be provided to the both the vulnerable adult and/or his/her legal representative and alleged perpetrator and written notice shall be provided to the alleged perpetrator within seven calendar days using the Notice of Track Assignment Change (APS-19).

DISPOSITIONS

The findings are based on whether the information and evidence gathered during the investigation constitutes preponderance of evidence of adult abuse and/or neglect.

DFS communicate the results of APS investigations to, alleged victims or his/her guardian, perpetrators, reporters, and providers.

The DFS Caseworker shall provide the District/County Attorney with a written report of substantiated abuse, neglect, exploitation, abandonment, or intimidation of a vulnerable adult within seven days of the determination.

Allegations are determined to be substantiated or unsubstantiated.

Substantiation: Information and evidence gathered constitutes a preponderance of evidence that the vulnerable adult was abused and/or neglected. Each of the following criteria must be met for substantiation:

1. The maltreatment meets the definition of abuse and/or neglect;
2. The perpetrator is a caregiver, person of trust or authority, professional, family member or other individual;
3. The DFS Supervisor and DFS District Manager have reviewed the investigation report, concur with the finding, and the DFS District Manager signs the Notice of Conclusions (APS-5).

The DFS Caseworker may substantiate a report if appropriate even if no criminal charges are filed.

Unsubstantiation: In the absence of preponderance of evidence of abuse and/or neglect, the allegations and the investigation is unsubstantiated. DFS may offer services to the vulnerable adult.

DFS maintains a Central Registry which includes any convictions for the abuse, neglect, exploitation, intimidation or abandonment of any vulnerable adult. Perpetrators of substantiated cases are placed on the Central Registry. Generally, individuals, not facilities' names are registered on the Central Registry, unless a facility fails to appropriately address factors such as abusive staff, policy, or environmental factors which put vulnerable adults at risk. When a facility is placed on the Central Registry, notice of findings is provided to the appropriate person(s) with administrative responsibility for the facility.

If law enforcement conducts an investigation of abuse and/or neglect of a vulnerable adult independently from DFS and provides a report to DFS, the DFS Caseworker shall review the record, consulting with the DFS Supervisor, DFS District Manager and law enforcement, when necessary, and then enter allegation information and appropriate findings into the DFS Data System.

ASSESSMENT TRACK

AUTHORITY

If a caregiver, family member or individual refuses to allow contact with the vulnerable adult or is not cooperative, the case may be reassigned to the investigation track.

During an assessment, the DFS Caseworker may request accompaniment from law enforcement when making an initial assessment without changing the report to the investigation track if there are concerns for safety of the worker or the vulnerable adult, if there is a history of domestic violence or drug involvement in the adult's home, if access to the vulnerable adult is being denied, or if there is an expectation that someone will need to be removed from the home. The DFS Case worker will explain to the vulnerable adult the reason law enforcement is involved.

If an emergency exists and the department has reasonable cause to believe that a vulnerable adult is suffering from abuse, neglect, self-neglect, exploitation, intimidation or abandonment and lacks the capacity to consent to the provision of protective services, the department, through the attorney general or the district attorney, may petition the court for an order for emergency protective services.

CASE INITIATION

The DFS Caseworker shall make in-person contact with the vulnerable adult within three calendar days. If the DFS Caseworker makes a good faith effort but is unable to make contact, the DFS Supervisor may grant an extension, and the delay shall be documented.

During the initial in-person interview, the DFS Caseworker shall provide the APS Pamphlet (APS 3N) describing the Assessment Track and the reported concern, inform the vulnerable adult or his or her agent that DFS received a report and has the duty to assess the report and the degree of risk to the vulnerable adult, that the referral may be reassigned to the Investigation Track if necessary to protect the vulnerable adult from abuse, neglect, intimidation, abandonment or exploitation and if this happens, provide the vulnerable adult and/or alleged perpetrator with the Statement of Allegations APS-2).

CONDUCTING THE ASSESSMENT

The DFS Caseworker initiates the Risk Assessment (APS-7) at intake when the case is accepted and shall be complete it within three (3) calendar days of the receipt of the report following in-person interviews and participation of the vulnerable adult and members of the support system. The time limit for completing the Risk Assessment is triggered by the date of acceptance to the assessment track. More than one (1) visit with the vulnerable adult may be required to adequately complete the assessment. The DFS Caseworker shall administer the Risk Assessment again later in the case, to assist in deciding when to close the case, unless fewer than 30 days have passed and no changes are noted.

The DFS Caseworker shall contact collaterals if they will have relevant information about the allegations or the incident, and can help to assess safety and clarify the credibility of the report.

The DFS Caseworker shall complete the Action Plan (APS-15) which includes necessary intervention and referral services to provide for the safety and well-being of the vulnerable adult.

If a referral is initially assigned to the Assessment Track, it can be changed to the Investigation Track if the DFS Caseworker discovers that criminal abuse, neglect, intimidation, abandonment or exploitation has taken place, it is likely the vulnerable adult will need to need a court-ordered intervention, or the allegation involves specific criteria for an investigation. As soon as possible after a decision is made to change the track assignment, verbal notice shall be provided to the both the vulnerable adult and/or his/her legal representative and alleged perpetrator and written notice shall be provided to the alleged perpetrator within seven calendar days using the Notice of Track Assignment Change (APS-19).

DISPOSITIONS

Assessments will reach one of the following dispositions:

- *Case Opened—Refer for Investigation. This disposition shall be used when the DFS Caseworker finds concerns during the initial contact regarding abuse, neglect, intimidation, abandonment or exploitation which meet the criteria for an investigation. The DFS Caseworker should consult with the DFS supervisor. If the situation appears to be an imminent concern or the vulnerable adult is in imminent danger and it is not possible to consult with the DFS supervisor, the DFS Caseworker shall take immediate action.*
- *Case Opened—Assessment Will Proceed. This disposition shall be used when it is determined the vulnerable adult needs/wants further intervention and he/she is willing to accept an assessment and an investigation is not needed.*
- *Case Opened—Requesting Preventive Services: Assessment will Proceed. This disposition shall be used when the vulnerable adult requests preventive services. The DFS Caseworker may use the Risk Assessment as needed, but it is not required.*
- *Case Closed—No Assessment Needed: Vulnerable Adult Safe. This disposition shall be used if it is determined at the time of the initial contact that either:*
 - *The vulnerable adult feels he/she is able to resolve the issues on his/her own;*
 - *The initial contact is all the intervention required; or*
 - *There was no substance to the report.*
- *Case Closed—Vulnerable Adult Declined Further Assessment. This disposition shall be used when the vulnerable adult declines an assessment and, if after the completion of the Risk Assessment (APS-7); the level of risk is determined to be low. If however, the level of risk is determined to be high and the vulnerable adult has refused to work with the Department, the DFS Caseworker shall work with the DFS Supervisor to encourage the vulnerable adult to accept the case assessment. The case may be transferred to the investigation track when the failure to cooperate increases the risk to a level that the Investigative Track criteria are now met (i.e. There is a need to pursue an alternative living arrangement or a court-ordered disposition to which the vulnerable adult objects). However, cases involving self-neglect are never reassigned to the investigation track.*
- *Case Closed—Unable to Locate. This disposition shall be used when diligent efforts have been made to locate the vulnerable adult and the DFS Caseworker has been unsuccessful.*

Based on the extant materials, no information is available on communication of dispositions or consequences for perpetrators.

POST-INVESTIGATIVE SERVICES

AUTHORITY

When a referral does not include any allegations of abuse and/or neglect but there are identified risk factors that indicate the need for services to prevent abuse and/or neglect, the referral is assigned to the Prevention Track.

When the DFS Caseworker offers services he/she also shall explain to the vulnerable adult that he or she has the right to accept or reject the services and shall not provide services unless the vulnerable adult consents. If the vulnerable adult receives an overall score in the low to moderate risk range of the Risk Assessment (APS-7), expresses understanding, insight and awareness of his/her situation, it is likely that he/she retains the capacity to consent to or refuse services. If the vulnerable adult retains the capacity to consent he/she cannot be required to accept protective services.

Based on the extant materials, no information is available on services for victims, family members or perpetrators.

APPROACH

When services are needed, the DFS Caseworker shall refer the vulnerable adult for the most appropriate, least restrictive, least expensive services available.

The APS program has a limited amount of funds available to pay for one-time or short-term, crisis oriented protective services for vulnerable adults but these funds shall not be used for recurring or ongoing service/ needs.

A case can be closed when Safety and Risks have been assessed, the DFS Caseworker has referred the vulnerable adult to services, and these are being provided by community resources, and the vulnerable adult has sufficient capacity or support and services to maintain his/her safety, permanency, and well-being.

All reports under in the Assessment Track shall be referred to another agency or closed within three months of DFS receiving the report, unless the DFS District Manager waives closure. For reports in the Assessment Track, if the Action Plan is still in place at the initial 30-day follow-up and the vulnerable adult's situation is stable or improving, the case may be closed.

For reports in the Investigation Track, if a finding has not been determined within six months of the case being accepted, the DFS Caseworker shall review the investigation with the DFS Supervisor and/or DFS District Manager and a finding shall be made based upon whether the information and evidence gathered during the investigation constitutes a preponderance of evidence of adult abuse and/or neglect and entered into the DFS Data System. There are

sometimes reasons a finding cannot be made after six months, such as if the District/County Attorney has asked a finding not be made because of a pending criminal case, in which case the DFS Caseworker shall notify the DFS District Manager.

When the vulnerable adult has received involuntary or emergency services or services pursuant to an injunction against the caregiver, family or individual, the DFS Caseworker makes a follow-up visit at 30 days. At or after this visit if the vulnerable adult's situation is stable or improving and DFS is no longer providing emergency services or services provided pursuant to an injunction against the caregiver, family or individual, the case is closed.

QUALITY ASSURANCE

The DFS Supervisor plays a role throughout all stages of the case from intake and through the investigation or assessment. The DFS Caseworker shall then discuss case closure/termination with his/her DFS Supervisor prior to discussing case closure/termination with the vulnerable adult and with the County or District Attorney.

Based on the extant materials, no information is available on case record documentation or any other quality assurance activities.

Appendix B: Maltreatment Definitions

Note: These definitions were not updated since the initial version of this report. They are based on 2016 policy.

Alabama

Abuse

The infliction of pain, injury, or the willful deprivation by a caregiver or other person of services necessary to maintain mental and physical health.

Emotional Abuse

The willful or reckless infliction of emotional or mental anguish or the use of a physical or chemical restraint, medication or isolation as punishment or as a substitute for treatment or care of any protected person.

Exploitation

The expenditure, diminution or use of the property, assets or resources of a protected person without the expressed voluntary consent of that person or his or her legally authorized representative or the admission of or provision of care to a protected person who needs to be in the care of a licensed hospital by an unlicensed hospital after a court order obtained by the State Board of Health has directed closure of the unlicensed hospital.

Financial Exploitation

The unauthorized use of funds or any resources of an elderly individual; the misuse of power of attorney or representative payee status for one's own advantage or profit. Examples include stealing jewelry or other property and obtaining the elderly person's signature for transfer of property or for a will through force, pressure or violence.

Neglect

The failure by the caregiver to obtain adequate goods or services for the elderly person's maintenance and well-being, either intentionally or accidentally. Examples include a caregiver who fails to buy groceries or prescription medications. Neglect can also be self-induced.

Self-Neglect

When the behavior of an elderly person threatens his or her own health or safety. Examples are failure to provide oneself with adequate food, clothing, shelter, medication, safety, and proper hygiene.

Physical Abuse

The intentional use of physical force that results in bodily injury, pain, or impairment, Examples include beating, slapping, bruising, cutting, burning, pushing or shoving, excessively restraining, force-feeding, and physical punishment.

Sexual Abuse

The non-consensual sexual contact of any kind with an elderly individual. Examples include fondling of the breast or genitals, rape, coerced nudity, and sexually explicit photographing.

Alaska

Abandonment

Desertion of a vulnerable adult by a caregiver.

Abuse

The willful, intentional, or reckless nonaccidental, and nontherapeutic infliction of physical pain, injury, or mental distress; or sexual assault

Exploitation

Unjust or improper use of another person or another person's resources for one's own profit or advantage

Neglect

The intentional failure by a caregiver to provide essential care or services necessary to maintain the physical and mental health of the vulnerable adult;

Self-Neglect

An act or omission by a vulnerable adult that results, or could result in the deprivation of essential services

Arizona

Abuse

(a) Intentional infliction of physical harm; (b) Injury caused by negligent acts or omissions; (c) Unreasonable confinement; and (d) Sexual abuse or sexual assault.

Neglect

A pattern of conduct without the person's informed consent resulting in deprivation of food, water, medication, medical services, shelter, cooling, heating or other services necessary to maintain minimum physical or mental health.

Emotional Abuse

A pattern of ridiculing or demeaning a vulnerable adult, making derogatory remarks to a vulnerable adult, verbally harassing a vulnerable adult or threatening to inflict physical or emotional harm on a vulnerable adult.

Physical Injury

The impairment of physical condition and includes any skin bruising, pressure sores, bleeding, failure to thrive, malnutrition, dehydration, burns, fracture of any bone, subdural hematoma, soft tissue swelling, injury to any internal organ or any physical condition that imperils health or welfare.

Serious Physical Injury

Physical injury that creates a reasonable risk of death or that causes serious or permanent disfigurement, serious impairment of health or loss or protracted impairment of the function of any bodily organ or limb.

Arkansas

Abuse

- Any intentional and unnecessary physical act that inflicts pain on or causes injury to an endangered or impaired adult;
- any intentional or demeaning act that a reasonable person would believe subjects an endangered or impaired person, regardless of age, ability to comprehend, or disability, to ridicule or psychological injury in a manner likely to provoke fear or alarm;

- any intentional threat that a reasonable person would find credible and nonfrivolous to inflict pain on or cause injury to an endangered or impaired person except in the course of medical treatment or for justifiable cause; or
- with regard to any adult resident of a long-term care facility, any willful infliction of injury, unreasonable confinement, intimidation, or punishment with resulting physical harm, pain, or mental anguish;

Exploitation

- The illegal or unauthorized use or management of an endangered or impaired adult's funds, assets, or property or the use of an endangered or impaired adult's person, power of attorney, or guardianship for the profit or advantage of oneself or another; or
- Misappropriation of property of an adult resident of a long-term care facility, that is, the deliberate misplacement, exploitation, or wrongful, temporary, or permanent use of a resident's belongings or money without the resident's consent

Imminent Danger to Health or Safety

A situation in which death or severe bodily injury could reasonably be expected to occur without intervention;

Neglect

- An act or omission by an endangered or impaired adult, for example, self-neglect; or
- an act or omission by a caregiver responsible for the care and supervision of an endangered or impaired adult constituting negligent failure to:
 - provide necessary treatment, rehabilitation, care, food, clothing, shelter, supervision, or medical services to an endangered or impaired adult;
 - report health problems or changes in health problems or changes in the health condition of an endangered or impaired adult to the appropriate medical personnel;
 - carry out a prescribed treatment plan; or
 - provide to an adult resident of a long-term care facility goods or services necessary to avoid physical harm, mental anguish, or mental illness as defined in regulations promulgated by the Office of Long-Term Care of the Division of Medical Services of the Department of Health and Human Services;

Physical Injury

- The impairment of a physical condition or the infliction of substantial pain.
- If the person is an endangered or impaired adult, there is a presumption that any physical injury resulted in the infliction of substantial pain.

Serious Bodily Harm

Physical abuse, sexual abuse, physical injury, or serious physical injury;

Serious Physical Injury

Physical injury to an endangered or impaired adult that:

- creates a substantial risk of death; or
- causes protracted disfigurement, protracted impairment of health, or loss or protracted impairment of the function of any bodily member or organ;

Sexual Abuse

Deviate sexual activity, sexual contact, or sexual intercourse, as those terms are defined in § 514-101, with another person who is not the actor's spouse and who is incapable of consent because he or she is mentally defective, mentally incapacitated, or physically helpless, as those terms are defined in § 5-14-101.

California

Physical Abuse

The non-accidental use of physical force that results or could have resulted in bodily injury, physical pain, or impairment.

Sexual Abuse

Nonconsensual sexual contact of any kind with a client. It includes, but is not limited to:

- unwanted touching;
- all types of sexual assault or battery such as rape, sodomy, and coerced nudity;
- sexually explicit photographing;
- forced exposure to pornography; and/or
- unwanted sexual relations with a spouse, partner, significant other or anyone else.

Financial Abuse

The illegal or improper use of a client's funds, property or assets.

*NOTE: Undue influence means excessive persuasion that causes another person to act or refrain from acting by overcoming that person's free will and results in inequity.

Neglect

Defined as the refusal or failure to fulfill any part of a person's obligations or duties to a client.

Self-Neglect

An adult's refusal or failure to perform essential self-care tasks.

Psychological abuse

The infliction of fear, anguish, agitation, or other emotional distress through verbal or nonverbal acts.

Abandonment

Intentionally leaving or forsaking a client

Isolation

The purposeful prevention of communication between a client and others without the client's consent or knowledge when the action is not in the client's best interest.

Abduction

The malicious taking or enticing away a client from California or keeping the client from returning to California, when the client lacks the capacity to consent or without consent of the conservator.

Colorado

Abuse

Pursuant to Section 26-3.1-101(1), C.R.S., means any of the following acts or omissions committed against an at-risk adult:

- the non-accidental infliction of physical pain or injury, as demonstrated by, but not limited to, substantial or multiple skin bruising, bleeding, malnutrition, dehydration, burns, bone fractures, poisoning, subdural hematoma, soft tissue swelling, or suffocation;
- confinement or restraint that is unreasonable under generally accepted caretaking standards; or,
- subjection to sexual conduct or contact classified as a crime under the “Colorado criminal code”, Title 18, C.R.S.

Caretaker Neglect

Pursuant to Section 26-3.1-101(2.3)(a), C.R.S., means neglect that occurs when adequate food, clothing, shelter, psychological care, physical care, medical care, habilitation, supervision, or other treatment necessary for the health, safety, or welfare of the at-risk adult is not secured for an at-risk adult or is not provided by a caretaker in a timely manner and with the degree of care that a reasonable person in the same situation would exercise, or when a caretaker knowingly uses harassment, undue influence, or intimidation to create a hostile or fearful environment for an at-risk adult. However, the withholding, withdrawing, or refusing of any medication, any medical procedure or device, or any treatment, including but not limited to resuscitation, cardiac pacing, mechanical ventilation, dialysis, artificial nutrition and hydration, any medication or medical procedure or device, in accordance with any valid medical directive or order, or as described in a palliative plan of care, is not deemed caretaker neglect.

Exploitation

An act or omission committed by a person that:

- uses deception, harassment, intimidation, or undue influence to permanently or temporarily deprive an at-risk adult of the use, benefit, or possession of anything of value;
- employs the services of a third party for the profit or advantage of the person or another person to the detriment of the at-risk adult;
- forces, compels, coerces, or entices an at-risk adult to perform services for the profit or advantage of the person or another person against the will of the at-risk adult; or,
- misuses the property of an at-risk adult in a manner that adversely affects the at-risk adult's ability to receive health care or health care benefits or to pay bills for basic needs or obligations.

Mistreatment

Pursuant to Section 26-3.1-101(7), C.R.S., "mistreatment" means:

- abuse;
- caretaker neglect;
- exploitation;
- an act or omission that threatens the health, safety, or welfare of an at-risk adult; or,
- an act or omission that exposes an at-risk adult to a situation or condition that poses an imminent risk of bodily injury to the at-risk adult.

Self-Neglect

Pursuant to Section 26-3.1-101(10), C.R.S., means an act or failure to act whereby an at-risk adult substantially endangers his/her health, safety, welfare, or life by not seeking or obtaining services necessary to meet the adult's essential human needs. Refusal of medical treatment, medications, devices, or procedures by an adult or in accordance with a valid medical directive or order, or as described in a palliative plan of care, shall not be deemed self-neglect. Refusal of food and water in the context of a life-limiting illness shall not, by itself, be evidence of self-neglect. "Medical directive or order" includes, but is not limited to, a medical durable power of attorney, a declaration as to medical treatment executed pursuant to Section 15-18-104, C.R.S., a medical order for scope of treatment form executed pursuant to Article 18.7 of Title 15, C.R.S., and a CPR directive executed pursuant to Article 18.6 of Title 15, C.R.S.

Connecticut

Abandonment

Refers to the desertion or willful forsaking of an elderly person by a caregiver or the foregoing of duties or the withdrawal or neglect of duties and obligations owed an elderly person by a caregiver or other person.

Abuse

Includes, but is not limited to, the willful infliction of physical pain, injury or mental anguish, or the willful deprivation by a caregiver of services which are necessary to maintain physical and mental health.

Exploitation

Refers to the act or process of taking advantage of an elderly person by another person or caregiver whether for monetary, personal or other benefit, gain or profit.

Neglect

Refers to the failure or inability of an elderly person to provide for himself or herself the services which are necessary to maintain physical and mental health or the failure to provide or arrange for provision of such necessary services by a caregiver.

Delaware

Physical Abuse

Physical abuse by unnecessarily inflicting pain or injury on an adult who is impaired; or

Emotional Abuse

A pattern of emotional abuse, which includes, but is not limited to, ridiculing or demeaning an adult who is impaired making derogatory remarks to an adult who is impaired or cursing or threatening to inflict physical or emotional harm on an adult who is impaired.

Sexual Abuse

Based on the extant materials, no information is available on the definition of sexual abuse.

Exploitation

An act of forcing, compelling, or exerting undue influence over a vulnerable adult causing the vulnerable adult to act in a way that is inconsistent with relevant past behavior, or causing the vulnerable adult to perform services for the benefit of another.

Financial Exploitation

The illegal or improper use, control over, or withholding of the property, income, resources, or trust funds of the elderly person or the vulnerable adult by any person or entity for any person's or entity's profit or advantage other than for the elder person or the vulnerable adult's profit or advantage. "Financial exploitation" includes, but is not limited to:

- the use of deception, intimidation, or undue influence by a person or entity in a position of trust and confidence with an elderly person or a vulnerable adult to obtain or use the property, income, resources, or trust funds of the elderly person or the vulnerable adult for the benefit of a person or entity other than the elderly person or the vulnerable adult;
- the breach of a fiduciary duty, including, but not limited to, the misuse of a power of attorney, trust, or a guardianship appointment, that results in the unauthorized appropriation, sale, or transfer of the property, income, resources, or trust funds of the elderly person or the vulnerable adult for the benefit of a person or entity other than the elderly person or the vulnerable adult; and
- obtaining or using an elderly person or a vulnerable adult's property, income, resources, or trust funds without lawful authority, by a person or entity who knows or clearly should know that the elderly person or the vulnerable adult lacks the capacity to consent to the release or use of his or her property, income, resources, or trust funds.

Neglect

- Lack of attention by a caregiver to physical needs of an adult who is impaired including but not limited to toileting, bathing, meals and safety;
- failure by a caregiver to carry out a treatment plan prescribed by a health care professional for an adult who is impaired; or
- intentional and permanent abandonment or desertion in any place of an adult who is impaired by a caregiver who does not make reasonable efforts to ensure that essential services, as defined in this section, will be provided for said adult who is impaired.

District of Columbia

Abuse

- The intentional or reckless infliction of serious physical pain or injury;
- the use or threatened use of violence to force participation in "sexual conduct," defined in § 22-3101(5);
- the repeated, intentional imposition of unreasonable confinement or threats to impose unreasonable confinement, resulting in severe mental distress;
- the repeated use of threats or violence, resulting in shock or an intense, expressed fear for one's life or of serious physical injury; or
- the intentional or deliberately indifferent deprivation of essential food, shelter, or health care in violation of a caregiver's responsibilities, when that deprivation constitutes a serious threat to one's life or physical health.

Exploitation

The unlawful appropriation or use of another's "property," defined in § 22-3201, for one's own benefit or that of a 3rd person.

Neglect

- The repeated, careless infliction of serious physical pain or injury;
- the repeated failure of a caregiver to take reasonable steps, within the purview of his or her responsibilities, to protect against acts of abuse described in paragraph (1)(B) of this section;
- the repeated, careless imposition of unreasonable confinement, resulting in severe mental distress; or
- the careless deprivation of essential food, shelter, or health care in violation of a caregiver's responsibilities, when that deprivation constitutes a serious threat to one's life or physical health.

Self-Neglect

The failure of an adult, due to physical or mental impairments or incapacity, to perform essential self-care tasks, including:

- providing essential food, clothing, shelter, or medical care;
- obtaining goods or services necessary to maintain physical health, mental health, emotional well-being, and general safety; or
- managing his or her financial affairs.

Florida**Abuse**

Willful act or threatened act by a relative, caregiver, or household member that causes or is likely to cause significant impairment to a vulnerable adult's physical, mental, or emotional health. Abuse includes acts or omissions.

Abuse of Medication

Medication abuse also includes overmedication. Older persons in institutions take an average of ten to twelve drugs per day, in contrast to four to seven per day for older persons living in the community. Of nursing home patients, 95 percent use prescribed drugs. Depression is a major side effect of many medications and drug interactions and adverse reactions are common. Over-tranquilization is a significant problem. Lack of education is a major cause of medication abuse. Education of physicians and caregivers is needed to reduce the incidence of all kinds of abuse.

Capacity to Consent

Means that a vulnerable adult has sufficient understanding to make and communicate responsible decisions regarding the vulnerable adult's person or property, including whether or not to accept protective services offered by DCF.

Capacity to Consent to or Refuse Services

Vulnerable adults generally should be considered capable of consenting to or refusing services if they demonstrate adequate knowledge and appreciation of their current physical health; cognitive, emotional and behavioral functioning and limitations; adequate knowledge and appreciation of their current social and living environments and associated risks, and the capacity to make and communicate informed and rational decisions regarding their person and environment, including accepting or rejecting services.

Exploitation

Means a person who: Stands in a position of trust and confidence with a vulnerable adult and knowingly, by deception or intimidation, obtains or uses, or endeavors to obtain or use, a vulnerable adult's funds, assets, or property with the intent to temporarily or permanently deprive a vulnerable adult of the use, benefit, or possession of the funds, assets, or property for the benefit of someone other than the vulnerable adult; or Knows or should know that the vulnerable adult lacks the capacity to consent, and obtains or uses, or endeavors to obtain or use, the vulnerable adult's funds, assets

Maltreatment Definition Caused by Abuse

Willful act or threatened act by a relative, caregiver, or household member that causes or is likely to cause significant impairment to a vulnerable adult's physical, mental, or emotional health. Abuse includes acts or omissions. A relative, caregiver, or household member.

Neglect

Failure or omission by the caregiver to provide care, supervision, and services necessary to maintain physical and mental health, including, but not limited to, food, clothing, medicine, shelter, supervision, and medical services, that a prudent person would consider essential for the well-being of an individual. A caregiver Failure of a caregiver to make reasonable effort to protect an individual from abuse, neglect, or exploitation. A caregiver Repeated conduct or a single incident of carelessness that produces or could reasonably be expected to result in physical or psychological injury or a substantial risk of death.

Exploitation

Knowingly by deception or intimidation, obtain or use, or endeavor to obtain or use, a vulnerable adult's funds, assets, or property with the intent to temporarily or permanently deprive a vulnerable adult of the use, benefit, or possession of the funds, assets, or property for the benefit of someone other than the vulnerable adult; or, A person who stands in a position of trust and confidence. To obtain or use, or endeavor to obtain or use, the vulnerable adult's funds, assets, or property with intent to temporarily or permanently deprive the individual of the use, benefit, or possession of funds, assets, or property for the benefit of someone other than the vulnerable adult. A person who knows or should know that the individual lacks the capacity to consent.

Passive Abuse

This is a situation in which a caregiver allows a resident to be mistreated or teased by other residents or staff. Passive abuse includes the failure to provide activities for improving the quality of life.

Self-Neglect

A vulnerable adult who has been determined by a protective investigator to be suffering from the ill effects of neglect not caused by a second party and is in need of protective services or other services to prevent further harm. The vulnerable adult has neglected himself or herself, or the caregiver is unavailable.

Georgia

Abuse

The willful infliction of physical pain, physical injury, mental anguish, unreasonable confinement, or the willful deprivation of essential services to a disabled adult or elder person.

Exploitation

The illegal or improper use of a disabled adult or elder person's resources for another's profit or advantage.

Neglect

The absence or omission of essential services to the degree that it harms or threatens with harm the physical or emotional health of a disabled adult or elder person.

Self-Neglect

The result of an adult's inability, due to physical and/or mental impairments or diminished capacity to perform essential self-care tasks including: providing essential food, clothing, shelter, and medical care; obtaining goods and services necessary to maintain physical health, mental health, emotional well-being and general safety; and/or managing financial affairs. (NAAPSA, 1990)

Hawaii**Physical Abuse**

Non-accidental injury, pain, or impairment such as from hitting, slapping, improper physical restraint or poisoning.

Psychological Abuse

Threats, insults, harassment, humiliation, intimidation, or other means that profoundly confuse or frighten the vulnerable adult.

Sexual Abuse

Sexual contact or conduct including pornographic photographing without consent.

Financial Exploitation

Wrongful taking, withholding, appropriation, or use of the adult's money, real property, or personal property.

Caregiver Neglect

Failure to provide adequate food, shelter, clothing, timely health care, personal hygiene, supervision, protection from abandonment or failure to carry out responsibilities that a reasonable person would exercise as an assumed, legal, or contractual caregiver.

Self-Neglect

Failure to care for one's self thereby exposing one's self to a condition that poses an immediate risk of death or serious physical harm

Idaho

Abuse

- Infliction of injury, unreasonable confinement, intimidation, or cruel punishment with resulting physical harm, pain, or mental anguish;
- deprivation by a person, including a caregiver, of goods or services that are necessary to avoid physical harm, mental anguish, or mental illness; and/or
- the intentional or negligent infliction of physical pain, injury or mental injury.

Exploitation

An action which may include, but is not limited to, the unjust or improper use of a vulnerable adult's financial power of attorney, funds, property, or resources by another person for profit or advantage.

Neglect

“Neglect” is the failure of a caretaker to provide food, clothing, shelter or medical care reasonably necessary to sustain the life and health of a vulnerable adult, or the failure of a vulnerable adult to provide those services for himself. This includes:

- the failure of a caregiver (as defined in paragraph (27) or fiduciary to provide the goods or services that are necessary to maintain the health or safety of an older individual; or

- self-neglect.

Self-Neglect

An adult's inability, due to physical or mental impairment or diminished capacity, to perform essential self-care tasks including:

- obtaining essential food, clothing, shelter, and medical care;
- obtaining goods and services necessary to maintain physical health, mental health, or general safety; or
- managing one's own financial affairs.

Illinois

Abuse

Causing any physical, mental, or sexual injury to an eligible adult, including exploitation of such adult's financial resources.

- Physical Abuse: causing the infliction of physical pain or injury to an eligible adult.
- Sexual Abuse: touching, fondling, sexual threats, sexually inappropriate remarks, or any other sexual activity with an eligible adult when he or she is unable to understand, unwilling to consent, threatened, or physically forced to engage in sexual behavior.
- Emotional Abuse: verbal assaults, threats of maltreatment, harassment, or intimidation intended to compel the eligible adult to engage in conduct from which he or she wishes and has a right to abstain, or to refrain from conduct in which the eligible adult wishes and has a right to engage.
- Confinement: restraining or isolating, without legal authority, an eligible adult for other than medical reasons, as ordered by a physician.
- Financial Exploitation: the use of an eligible adult's resources by another to the disadvantage of that adult or the profit or advantage of a person other than that adult.

Neglect

Another individual's failure to provide an eligible adult with or willful withholding from an eligible adult the necessities of life including, but not limited to, food, clothing, shelter or health care. This definition does not create any new affirmative duty to provide support to eligible adults; nor

shall it be construed to mean that an eligible adult is a victim of neglect because of health care services provided or not provided by licensed health care professionals.

- Willful Deprivation: deliberate denial of medications, medical care, shelter, food therapeutic devices, or other physical assistance to a person who, because of age, health, or disability, requires such assistance and thereby exposes that person to the risk of physical, mental, or emotional harm because of such denial: except with respect to medical care or treatment when the dependent person has expressed an intent to forego such medical care or treatment and has the capacity to understand the consequences.

Self-Neglect

A condition that is the result of an eligible adult's inability, due to physical or mental impairments, or both, or a diminished capacity, to perform essential self-care tasks that substantially threaten his or her own health, including providing essential food, clothing, shelter, and health care; and obtaining goods and services necessary to maintain physical health, mental health, emotional wellbeing, and general safety.

Passive Neglect

Another individual's failure to provide an eligible adult with the necessities of life including, but not limited to, food, clothing, shelter, or medical care because of failure to understand the eligible adult's needs, lack of awareness of services to help meet needs, or a lack of capacity to care for the eligible adult.

Indiana

Abuse/Battery

A person who knowingly or intentionally:

- touches another person in a rude, insolent or angry manner; or
- in a rude, insolent or angry manner places any bodily fluid or waste on another person.

Neglect

The endangered adult or the person who takes care of the endangered adult is unable to fails to provide adequate food, clothing, shelter or medical care.

Exploitation

Exploitation of the individual's personal services or property: A person who recklessly, knowingly or intentionally exerts unauthorized use of the personal services or the property of:

- an endangered adult;
- a dependent 18 years of age or older; or
- for the person's own profit or advantage or for the profit of advantage of another person.

Includes, but is not limited to sexual misuse as well as the use of the endangered adult's labor without pay or exerting unauthorized control over the finances or property of the endangered adult.

Iowa

Financial Exploitation

The act or process of:

- taking unfair advantage of a dependent adult's physical or financial resources for one's own personal or pecuniary profit without the informed consent of the dependent adult, including theft;
- using undue influence, harassment, duress, deception, false representation, or false pretenses; and/or
- because of the willful or negligent acts or omissions of a caretaker.

Physical Abuse

Because of the willful or negligent acts or omissions of a caretaker, one of the following:

- physical injury to a dependent adult,
- injury to a dependent adult which is at a variance with the history given,
- unreasonable confinement of a dependent adult,
- unreasonable punishment of a dependent adult, and/or
- assault of a dependent adult.

Assault

Committed by a caretaker when, without justification, the person does any of the following:

- Any act which is intended to cause pain or injury to, or which is intended to result in physical contact which will be insulting or offensive to another, coupled with the apparent ability to execute the act.
- Any act, which is intended to place another in fear of immediate physical contact, which will be painful, injurious, insulting, or offensive, coupled with the apparent ability to execute the act.
- Intentionally points any firearm toward another or displays in a threatening manner any dangerous weapon toward another.

However, the act shall not be considered an assault when the person doing the act and the other person are voluntary participants in a sport, social or other activity that is not in itself criminal, and the act is a reasonably foreseeable incident of that sport or activity and does not create an unreasonable risk of serious injury or breach of the peace.

*Note: There does not have to be an injury to constitute physical abuse.

Sexual Abuse

The commission of a sexual offense under Iowa Code Chapter 709 or Iowa Code section 726.2 with or against a dependent adult because of the willful or negligent acts or omissions of a caretaker. "Sexual abuse" includes:

- first degree sexual abuse;
- second degree sexual abuse;
- third degree sexual abuse;
- indecent exposure;
- assault with intent to commit sexual abuse and incest;
- sexual exploitation by a counselor or therapist;
- sexual exploitation of a dependent adult by a caretaker;
- invasion of privacy, nudity; and/or
- incest.

Sexual Exploitation by a Caretaker

Any consensual or nonconsensual sexual conduct with a dependent adult. This includes but is not limited to kissing; touching the clothed or unclothed inner thigh, breast, groin, buttock, anus, pubes, or genitals; or a sex act as defined in section 702.17. Sexual exploitation also includes the transmission, display, or taking of electronic images of the unclothed breast, groin, buttock, anus, pubes, or genitals of a dependent adult by a caretaker for a purpose not related to treatment or diagnosis or as part of an ongoing assessment, evaluation, or investigation. Sexual exploitation does not include touching which is part of a necessary examination, treatment, or care by a caretaker acting within the scope of the practice or employment of the caretaker; the exchange of a brief touch or hug between the dependent adult and a caretaker for reassurance, comfort, or casual friendship; or touching between spouses.

Denial of Critical Care

The deprivation of the minimum food, shelter, clothing, supervision, physical or mental health care, or other care necessary to maintain a dependent adult's life or health, because of the willful or negligent acts or omissions of a caretaker. This includes denial of or failure to provide/meet adequate food, adequate shelter, adequate clothing, adequate medical care, adequate mental health care, emotional needs necessary for normal functioning, proper supervision, or adequate physical care.

Note: Denial of critical care may also be the deprivation of the minimum food, shelter, clothing, supervision, physical or mental health care, and other care necessary to maintain a dependent adult's life or health due to the acts or omissions of the dependent adult. (This includes the subcategories listed above.) Dependent adult abuse does not include:

- The dependent adult declines medical treatment because the dependent adult holds a belief or is an adherent of a religion whose tenets and practices call for reliance on spiritual means in place of reliance on medical treatment.
- The dependent adult's caretaker declines such treatment acting in accordance with the dependent adult's stated or implied consent, if the dependent adult holds a belief or is an adherent of a religion whose tenets and practices call for reliance on spiritual means in place of reliance on medical treatment.
- The dependent adult or the dependent adult's next of kin or guardian requests withholding or withdrawal of health care from a dependent adult who is terminally ill, in

the opinion of a licensed physician, pursuant to the applicable procedures under Iowa Code Chapters 125, 144A, 222, 229, or 633.

Self-denial of critical care or self-neglect is dependent adult abuse that is the result of acts or omissions of the dependent adult. Self-denial of critical care includes deprivation of the minimum food, shelter, clothing, physical care, mental health care, medical care, or other care necessary to maintain a dependent adult's life or health.

Reports of self-neglect are considered differently from reports of abuse when a caretaker is responsible. Because the person responsible is the dependent adult, that person's name is not listed on the Central Abuse Registry. Instead of an evaluation, which is completed when a caretaker responsible for the abuse, an assessment is completed and kept in the local case file.

Financial Exploitation

A caretaker who knowingly obtains, uses, endeavors to obtain to use, or who misappropriates, a dependent adult's funds, assets, medications, or property with the intent to deprive a dependent adult of the use, benefit, or possession of the funds, assets, medication, or property temporarily or permanently for the benefit of someone other than the dependent adult.

Neglect

The deprivation of the minimum food, shelter, clothing, supervision, physical or mental health care, or other care necessary to maintain a dependent adult's life or physical or mental health. Dependent adult abuse in health care facilities, assisted living programs, elder group homes, and adult day service programs does not include:

- The dependent adult declines medical treatment because the adult holds a belief or is an adherent of a religion whose tenets and practices call for reliance on spiritual means in place of reliance on medical treatment.
- The dependent adult's caretaker declines medical treatment acting in accordance with the dependent adult's stated or implied consent.

A dependent adult or the adult's next of kin or guardian requests withholding or withdrawing of health care from the adult who is terminally ill, in the opinion of a licensed physician, pursuant to the applicable procedures under Iowa Code chapters 125, 144A, 222, 229, or 633.

Kansas

Abuse

Any act or failure to act performed intentionally or recklessly that causes or is likely to cause harm to an adult including:

- infliction of physical or mental injury;
- any sexual act with an adult when the adult does not consent or when the other person knows or should know that the adult is incapable of resisting or declining consent to the sexual act due to mental deficiency or disease or due to fear of retribution or hardship;
- unreasonable use of a physical restraint, isolation or medication that harms or is likely to harm an adult;
- unreasonable use of physical or chemical restraint, medication or isolation as punishment, for convenience, in conflict with a physician's orders or as a substitute for treatment, except where such conduct or physical restraint is in furtherance of the health and safety of the adult;
- a threat or menacing conduct directed toward an adult that results or might reasonably be expected to result in fear or emotional or mental distress to an adult;
- fiduciary abuse; or
- omission or deprivation by a caretaker or another person of goods or services which are necessary to avoid physical or mental harm or illness.

Exploitation

Misappropriation of an adult's property or intentionally taking unfair advantage of an adult's physical or financial resources for another individual's personal or financial advantage by the use of undue influence, coercion, harassment, duress, deception, false representation of false pretense by a caretaker or another person.

Neglect

The failure of omission by one's self, caretaker or another person with a duty to supply or to provide goods or services which are reasonably necessary to ensure safety and well-being and to avoid physical or mental harm or illness.

Kentucky

Adult Physical or Sexual Abuse

The infliction of injury, sexual abuse, unreasonable confinement, intimidation, or punishment that results in physical pain or injury, including mental injury.

The SSW accepts a report that alleges the following acts have occurred:

1. forced sexual relations, including forced sex with others, animals or foreign objects;
2. unwanted fondling or touching;
3. physical assault, including pushing, kicking, hitting, slapping, punching, strangling, pinching, burning, hair pulling, shoving, stabbing, shooting, beating, battering during pregnancy, striking with an object and complaints of pain as a result of the assault;
4. marks that are or have been observed on an adult that were allegedly inflicted by another individual;
5. rough handling, (for example, forced feeding, roughness when transferring individual from bed to chair, or during bathing); and
6. inappropriate use of physical or chemical restraints.

Adult Mental Injury

The infliction of injury, sexual abuse, unreasonable confinement, intimidation, or punishment that results in physical pain or injury, including mental injury.

The SSW accepts a report that alleges the following acts have occurred:

1. threats of violence against the adult or others;
2. threats with a weapon, including objects used as a weapon;
3. forced isolation or imprisonment, unreasonable confinement;
4. destruction or threats to destroy property and/or pets;
5. forcing to perform degrading acts;
6. controlling activities such as sleep, eating habits, access to money or social relationships;

7. verbal assaults and attacks on the adult's self-esteem, including name calling, insulting, degrading remarks, custody threats or threats to abduct/abscond with the child(ren);
8. stalking; or
9. intimidation.

Adult Self-Neglect

When an adult is unable to perform or obtain for himself or herself the goods or services that are necessary to maintain his or her health or welfare, or the deprivation of services by a caretaker that are necessary to maintain the health and welfare of an adult. 922 KAR 5:070: Neglect, as defined in KRS 209.020(16), of an adult that may result in harm to the health and safety of the adult in the following areas:

1. Hygiene neglect, if the adult has physical symptoms that require treatment due to poor care.
2. Food neglect, if an adult shows symptoms of: Malnutrition; Dehydration; Food poisoning; or Lack of adequate food for a period of time that results in physical symptoms or requires treatment.
3. Environmental neglect, if a serious health and safety hazard is present, and the adult or the adult's caretaker is not taking appropriate action to eliminate the problem.
4. Medical neglect, if the adult is not receiving treatment for an injury, illness, or disability that results in an observable decline in the adult's health and welfare, may be life threatening, or may result in permanent impairment.

The SSW accepts reports alleging that the adult's health or welfare has suffered or declined due to:

1. unmet personal or medical needs, such as bedsores, malnourishment, dehydration, inappropriate clothing, poor hygiene, incorrect use of medication, lack of food or inadequate food;
2. refusing or being unable to access medical or mental health care/treatment;
3. living in an unsafe environment, such as fire/safety hazard, roach/rat/insect infested dwelling, condemned building;
4. living alone and in life threatening conditions;
5. being unable to manage own resources;
6. new onset of confusion and/or disorientation;
7. attempts to commit suicide; or
8. hoarding.

Caretaker Neglect

A situation in which an adult is unable to perform or obtain for himself or herself the goods or services that are necessary to maintain his or her health or welfare, or the deprivation of services by a caretaker that are necessary to maintain the health and welfare of an adult. 922 KAR 5:070: Neglect, as defined in KRS 209.020(16), of an adult that may result in harm to the health and safety of the adult in the following areas:

1. Hygiene neglect, if the adult has physical symptoms that require treatment due to poor care as a result of an act or omission by a caretaker or the absence of a caretaker.
2. Supervision neglect, if the reporting source has observed a physical health and safety risk to an adult resulting from a lack of necessary and appropriate supervision.
3. Food neglect, if an adult shows symptoms of malnutrition; dehydration; food poisoning; or lack of adequate food for a period of time that results in physical symptoms or requires treatment.
4. Environmental neglect, if a serious health and safety hazard is present, and the adult or the adult's caretaker is not taking appropriate action to eliminate the problem.
5. Medical neglect, if the adult is not receiving treatment for an injury, illness, or disability that: results in an observable decline in the adult's health and welfare; may be life threatening; or may result in permanent impairment.

The SSW accepts a report that alleges the following acts occurred:

1. abandonment or lack of supervision;
2. unmet personal or medical needs, such as bedsores, or incorrect administration of prescribed medication;
3. failure to provide adequate food or hydration;
4. adult has physical symptoms the require treatment due to poor hygiene as a result of an act or omission by the caretaker or the absence of the caretaker, and clothing is insufficient to meet the elements;
5. serious environmental health and safety hazards are present and the adult or the adult's caretaker is not taking appropriate action to eliminate the problem;
6. a lack of necessary and appropriate supervision has created physical health and safety risks to the adult;
7. forced isolation, unreasonable confinement; and/or
8. not obtaining needed mental health or medical services or permitting unnecessary pain.

Adult Exploitation

Obtaining or using another person's resources, including but not limited to funds, assets, or property, by deception, intimidation, or similar means, with the intent to deprive the person of those resources. 922 KAR 5:070: Exploitation of an adult, as defined in KRS 209.020(9), if the report alleges isolation from friends, relatives, or important information, such as: screening telephone calls; denying visitors; or intercepting mail; physical or emotional dependency; manipulation; acquiescence; and loss of resources.

The SSW accepts a report if there is an indication of:

1. force, deception or manipulation;
2. isolation from friends, relatives or important information, such as screening phone calls, denying visitors, or intercepting mail;
3. compelling physical or emotional dependency;
4. excessive charges for food, shelter, care or services; or
5. unauthorized or fraudulent use of monies, resources or assets.

Spouse/Partner Abuse and Neglect

"Abuse" means the infliction of injury, unreasonable confinement, intimidation, or punishment resulting in physical harm or pain, including mental injury. "Neglect" means a situation in which a person deprives his or her spouse of reasonable services to maintain health and welfare;

Ireland v Davis, Ky. App., 957 S.W. 2nd 310 (1997), states: A person in an ongoing, cohabitating and intimate relationship who is eighteen (18) years of age or older and the victim of alleged abuse by a partner.

The SSW accepts a referral when following factors are alleged:

1. unwanted fondling, forced sexual relations, including forced sex with others, animals, or foreign objects;
2. physical assault, including pushing, kicking, hitting, slapping, punching, strangling, pinching, burning, hair pulling, shoving, stabbing, shooting, beating, battering during pregnancy, striking with an object and complaints of pain as a result of the assault;
3. unreasonable confinement including the use of physical or chemical restraints or punishment resulting in physical harm or pain;
4. threats of violence against the spouse/partner, self or others;

5. threats with a weapon, including objects used as a weapon;
6. forced isolation or imprisonment;
7. destruction or threats to destroy property and/or pets;
8. forcing to perform degrading acts;
9. controlling activities such as sleep, eating habits, access to money or social relationship;
10. verbal assaults and attacks on the person's self-esteem, including name calling, insulting, degrading remarks, or threats to abduct/abscond with the child(ren);
11. stalking;
12. intimidation;
13. actively prohibiting the spouse/partner from obtaining needed medical care; and/or
14. controlling the environment to the extent that it prohibits the spouse/partner from carrying out activities of daily living.

Louisiana

Abuse

The infliction of physical or mental injury, or actions which may reasonably be expected to inflict physical injury, on an adult by other parties, including but not limited to such means as sexual abuse, abandonment, isolation, exploitation, or extortion of funds or other things of value.

Sexual Abuse

Abuse of an adult, as defined in this Section, when any of the following occur:

- The adult is forced, threatened, or otherwise coerced by a person into sexual activity or contact.
- The adult is involuntarily exposed to sexually explicit material, sexually explicit language, or sexual activity or contact.
- The adult lacks the capacity to consent, and a person engages in sexual activity or contact with that adult.

Neglect

The failure, by a caregiver responsible for an adult's care or by other parties, to provide the proper or necessary support or medical, surgical, or any other care necessary for his well-being. No adult who is being provided treatment in accordance with a recognized religious method of

healing in lieu of medical treatment shall for that reason alone be considered to be neglected or abused.

Self-Neglect

The failure, either by the adult's action or inaction, to provide the proper or necessary support or medical, surgical, or any other care necessary for his own well-being. No adult who is being provided treatment in accordance with a recognized religious method of healing in lieu of medical treatment shall for that reason alone be considered to be self-neglected.

Exploitation

The illegal or improper use or management of an aged person's or disabled adult's funds, assets, or property, or the use of an aged person's or disabled adult's power of attorney or guardianship for one's own profit or advantage

Extortion

The acquisition of a thing of value from an unwilling or reluctant adult by physical force, intimidation, or abuse of legal or official authority.

Maine**Abuse**

The infliction of injury, unreasonable confinement, intimidation or cruel punishment that causes or is likely to cause physical harm or pain or mental anguish; sexual abuse or sexual exploitation; financial exploitation; or the intentional, knowing or reckless deprivation of essential needs. "Abuse" includes acts and omissions.

Exploitation

The illegal or improper use of an incapacitated or dependent adult or that adult's resources for another's profit or advantage.

Financial Exploitation

The use of deception, intimidation, undue influence, force or other unlawful means to obtain control over the property of a dependent adult for another's profit or advantage

Neglect

A threat to an adult's health or welfare by physical or mental injury or impairment, deprivation of essential needs or lack of protection from these.

Sexual Abuse or Sexual Exploitation

Contact or interaction of a sexual nature involving an incapacitated or dependent adult without that adult's informed consent.

Maryland**Physical Abuse**

The sustaining of any physical pain or injury by a vulnerable adult as a result of cruel or inhumane treatment or as a result of a malicious act or acts by a caregiver, or other person who has permanent or temporary care or responsibility for the supervision of a vulnerable adult, or by any household or family member under circumstances that indicate that the vulnerable adult's health or welfare is harmed or threatened. Abuse does not include the performance of an accepted medical or behavioral procedure ordered by a health care provider acting within the scope of the health care provider's practice.

Sexual Abuse

Sexual abuse includes any act that involves sexual molestation or sexual exploitation of a vulnerable adult. It may include:

- incest, rape, or sexual offense in any degree;
- sodomy; and
- unnatural or perverted sexual practices.

Neglect by Others

The failure to provide necessary assistance and resources for the physical and mental health needs of the vulnerable adult, including food, clothing, toileting, essential medical treatment, shelter or supervision. Neglected individuals may include adults who are released or terminated from a protected environment (e.g., adult foster care, licensed and unlicensed assisted living facilities, institutional living, etc.) with limited life maintenance skills who, because of capacity, may be unable to function in an unprotected environment.

Exploitation

Any action that involves the misuse of a vulnerable adult's funds, property, or person.

Self-Neglect

The inability of a vulnerable adult to provide the vulnerable adult with the services:

- that are necessary for the vulnerable adult's physical and mental health; and,
- the absence of which impairs or threatens the vulnerable adult's safety and well-being.

Massachusetts (Elder Affairs)**Abuse**

An act or omission which results in serious physical or emotional injury to an elderly person or financial exploitation of an elderly person; or the failure, inability or resistance of an elderly person to provide for himself or herself one or more of the necessities essential for physical and emotional well-being without which the elderly person would be unable to safely remain in the community; provided, however, that no person shall be considered to be abused or neglected for the sole reason that such person is being furnished or relies upon treatment in accordance with the tenets and teachings of a church or religious denomination by a duly accredited practitioner thereof.

Physical Abuse

The non-accidental infliction of serious physical injury to an elder or the threat of serious physical injury in which the PS agency has reasonable cause to believe that an individual may have the intent and capacity to carry out the threatened serious physical injury. Serious physical injury shall be determined by consideration of the following factors:

- the elder's physical condition;
- the type, size, shape, number and location of physical injuries;
- the circumstances under which the injury occurred including the potential for serious injury in the actual incident;
- the emotional impact on the elder; and/or
- the potential for escalation of abuse.

Sexual Abuse

Sexual assault, rape, sexual misuse, or sexual exploitation of an elder or threats of sexual abuse where the individual has the intent and capacity to carry out the threatened sexual abuse.

Emotional Abuse

The non-accidental infliction of serious emotional injury to an elder. Emotional abuse must establish a relationship between abusive actions, behaviors, or language and a resulting effect on the emotional state or functioning of the elder. Serious emotional injury includes:

- (a) An extreme emotional reaction or response such as a severe state of anxiety, fear, depression or withdrawal;
- (b) Development of post-traumatic stress disorder including but not limited to symptoms resulting from being forced to engage in sexual relations by force, threat of force or duress;
- (c) Symptoms of an extreme emotional reaction or response resulting from threats to kill, harm or financially exploit.

Neglect

The failure or refusal by a caretaker to provide one or more of the necessities essential for physical well-being, such as food, clothing, shelter, personal care, and medical care, which has resulted in or where there is substantial reason to believe that such failure or refusal will

immediately result in serious physical harm to an elder. Neglect shall be determined by consideration of each of the following factors:

- The elder's ability to meet her/his own needs.
- A history of dependence on a caretaker as defined in 651 CMR 5.02.
- The elder's capacity to consent.
- The expectation or desire of the elder of continuing to receive care provided by the caretaker.
- The seriousness of physical harm resulting from neglect shall be determined by consideration of 650 CMR 5.02(4)(a) through (e) under the definition of physical abuse.

Financial Exploitation

The non-accidental act or omission by another person without the consent of the elder causing substantial monetary or property loss to the elder or substantial monetary or property gain to the other person which gain would otherwise benefit the elder, but for the act or omission of the other person. Financial exploitation may result from consent obtained as a result of misrepresentation, undue influence, coercion or threat of force by the other person. Financial exploitation may not result from a bona fide gift or from any act or practice by another person in the conduct of a trade or commerce prohibited by M.G.L. c. 93A, § 2.

Self-Neglect

The failure or refusal of an elder to provide for himself or herself one or more of the necessities essential for physical or emotional well-being, including food, clothing, shelter, personal care, which has resulted in, or where there is a substantial reason to believe that such failure or refusal will immediately result in serious harm, and prevents the elder from remaining safely in the community. Self-neglect shall be determined by considering the following factors:

- the presence of mental or physical impairments, substance abuse, and cultural or linguistic barriers;
- the elder's capacity to make informed decisions and knowingly appreciate the consequences of such decisions;
- the involvement or availability of other service providers to meet one or more of the elder's essential needs when acting within the scope of their responsibility;

- the willingness and capability of family members and friends to meet one or more of the elder's essential needs; and
- the elder's physical and mental condition, and the potential for the situation to escalate to the point where the elder would be seriously harmed without intervention.

Massachusetts (Disabilities)

Abuse

An Act or Omission which results in Serious Physical Injury or Serious Emotional Injury to a Person with a Disability.

Abuse Per Se

An Act or Omission of a Caretaker that includes or results in the following, regardless of whether a Serious Physical Injury or serious emotional injury is manifested:

- Sexual Abuse;
- the withholding of adaptive aids used by the Person with a Disability, provided that said withholding is unrelated to safety, care or treatment;
- a pattern of touching neither required nor appropriate for tending to the safety and welfare of a Person with a Disability. For purposes of 118 CMR 2.02: Abuse Per Se(c) only, the term "pattern" shall mean "Two or more separate instances of touching;" and/or
- the intentional, wanton or reckless application of a physical force in a manner that inflicts physical pain or Serious Emotional Injury as determined by an evaluation of the totality of the circumstances. For the exclusive purposes of 118 CMR 2.02: Abuse Per Se(d), when a person as a result of his or her disability is unable to express or demonstrate a Serious Emotional Injury or a reaction to physical pain, the investigator may use the reasonable person standard solely for the purposes of evaluating whether the intentional, wanton or reckless application of a physical force inflicted physical pain or Serious Emotional Injury. Using the reasonable person standard, the investigator determines whether, by a preponderance of the evidence, given the

same set of factual circumstances, a reasonable person would have experienced Physical pain or Serious Emotional Injury.

Reasonable person shall mean "A person who in similar circumstances would exercise the qualities of attention, knowledge, intelligence and judgment which society requires of its members for the protection of himself or herself and the interest of others."

Serious Emotional Injury

An injury to the intellectual functioning or emotional state of a Person with a Disability caused by either the verbal or nonverbal conduct of a Caretaker, including but not limited to, coercion; harassment; the inappropriate isolation of a Person with a Disability from family, friends or regular activity; and verbal assault, including but not limited to, ridiculing, intimidating, yelling or swearing. A Serious Emotional Injury is evidenced by an observable and measurable reduction in the person's ability to function from the person's customary range of performance or customary behavior including, but not limited to, a state of anxiety, fear, depression or withdrawal; or the development of post-traumatic stress disorder, including but not limited to, symptoms resulting from being forced to engage in un-assented to sexual activity.

Serious Physical Injury

Impairment of the physical condition of a Person with a Disability resulting from an Act or Omission of a Caretaker, including, but not limited to: (a) death; (b) brain damage; permanent disfigurement; fracture of any bone; subdural hematoma; intramuscular injury; (c) bedsores or similar condition; (d) any significant: bleeding; bruising; burn; sunburn; abrasion; laceration; or puncture of the skin; (e) any significant impairment of a: bodily system; function; limb; or organ, including human skin; (f) harmful symptoms resulting from the use of medication or chemicals without informed consent or appropriate authorization; or (g) malnutrition or dehydration.

Sexual Abuse

Occurs when a Caretaker forces, tricks, threatens, coerces, exploits or otherwise engages a Person with a Disability or permits another person to force, trick, threaten, coerce, exploit or otherwise engage a Person with a Disability in an un-assented to sexual activity. Sexual activities may include but are not limited to unwanted or inappropriate touching, kissing, touching of the

clothed or unclothed inner thigh, breast, groin, buttock, anus, pubes or genitalia; or any unassented to sex act including but not limited to: sexual intercourse; sexually explicit photographing, including the use, publication or dissemination of nude or sexually explicit photographs or recordings to exploit, manipulate, threaten or coerce; or exposure to sexually explicit material, activity or language. Sexual Abuse also includes, but is not limited to, instances in which: (a) the Person with a Disability lacks the capacity to assent to the sexual activity with the Caretaker or other person, even if the Person with a Disability has purportedly assented; or (b) due to the nature of his or her disability, fear of retribution or hardship, or the inequality of position and power, the Person with a Disability was inappropriately engaged in the sexual activity with the Caretaker or other person.

Commentary: Sexual Abuse does not include a touching which is part of a necessary examination, treatment or care by a Caretaker acting within the scope of the practice or employment of the Caretaker; or the exchange of a brief touch or hug between the Person with a Disability and a Caretaker to reassurance, comfort, or casual friendship.

Michigan

Abuse

Harm or threatened harm to an adult's health or welfare caused by another person, including, but not limited to, non-accidental physical or mental injury, sexual abuse or maltreatment.

Exploitation

An action that involves the misuse of an adult's funds, property, or personal dignity by another person.

Neglect

Harm to an adult's health or welfare caused by the inability of the adult to respond to a harmful situation or by the conduct of a person who assumes responsibility for a significant aspect of the adult's health or welfare. Neglect includes the failure to provide adequate food, clothing, shelter, or medical care.

A person shall not be considered to be abused, neglected, or in need of emergency or protective services for the sole reason that the person is receiving or relying upon treatment by spiritual means through prayer alone in accordance with the tenets and practices of a recognized church or religious denomination, and this act shall not require any medical care or treatment in contravention of the stated or implied objection of that person.

Physical Danger

A situation, whether caused by self or others, which appears likely to result in harm to the adult's physical well-being, health or safety.

Minnesota

Abuse

Physical abuse is defined as hitting, slapping, and kicking, pinching, biting, or corporal punishment. It may include the use of any aversive or deprivation procedure, unreasonable confinement, or involuntary seclusion, forced separation of the vulnerable adult (VA) from other persons against their will, assault with a deadly weapon or force likely to produce great bodily injury, unreasonable physical constraint, assault, battery, etc. Physical abuse also includes use of a physical or chemical restraint or psychotropic medication for punishment, for a period beyond that for which the medication was ordered, or for any purpose not authorized by the physician. Abuse can be using drugs to injure a VA or facilitate a crime.

Emotional Abuse (Mental)

Defined use of repeated or malicious oral, written, or gestured language. The word *emotional* refers to our feelings. Emotional abuse refers to the effect the behavior has on the victim. It's not just about how the VA feels at the moment that they are abused, but also about how they feel after (Abuser plays on feelings, makes fun, withholds affection, makes VA cry). *Mental* refers to the mind or the intellect. Distorted beliefs about the world that abusers tell VAs get ingrained in their minds. Calling the VA names, lies, and demeaning are examples of mental abuse.

It should be noted, MN has a “reasonable person standard” which means a reasonable person would have to consider it abuse. There is no standard in regard the capacity of the VA to understand they have been abused, so even if the VA doesn’t understand that they have been abuse, if a reasonable person does, then it’s abuse.

Sexual Abuse

Any sexual contact or penetration between a facility staff person or a person providing services in the facility and a resident, patient, or client of that facility. The solicitation, inducement or promotion of prostitution is sexual abuse. A VA that retains capacity can engage in sexual contact when a previous sexual relationship exists prior to entering the facility. It is not sexual abuse for a VA to have a sexual relationship with their Personal Care Attendant (PCA) if the VA has capacity. Resident to resident sexual abuse is reportable. MN Statute references facility staff or persons providing services in the facility for VAs as the perpetrators of sexual abuse, rather than other residents, but federal law mandates reporting of all sexual abuse, regardless of the perpetrator. Sexual abuse may be investigated at the state level and is contingent on capacity. Ex-If one resident retains capacity and another is incapacitated, an investigation would be warranted.

Neglect

Neglect is defined as the failure or omission by a caregiver to supply a vulnerable adult with care or services, including but not limited to, food, clothing, shelter, health care, or supervision which is reasonable and necessary to obtain or maintain the vulnerable adult's physical or mental health or safety, considering the physical and mental capacity or dysfunction of the vulnerable adult. This may occur due to neglect by a caregiver, or because the vulnerable adult cannot meet their own needs. Neglect is classified in two categories; self-neglect or caregiver.

Self-Neglect

The result of an adult’s inability, due to physical and/or mental impairments or diminished capacity, to perform essential self-care tasks including: providing essential food, clothing, shelter, and medical care; obtaining goods and services necessary to maintain physical health, emotional well-being and general safety; and/or managing financial affairs.” *National Association of Adult Protective Services Administrators. Conducted by Virginia Department of Social Services. “A National Study of Self-Neglecting Adult Protective Services Clients.” 1991.*

Self-neglect can be a result of a brain injury, dementia or mental illness. Examples of behavior that would be seen as self-neglect are hoarding, poor hygiene/nutrition, lack of medical care, etc. An adult that retains capacity to make decisions and understands the consequences of their choices has the ability to make decisions that are not socially acceptable.

One of the most frequently asked questions about reports of self-neglect is how to track the receipt of a report, assign it for investigation and document the findings. The Minnesota Vulnerable Adult Statute does not specifically define “self-neglect.” In Minn. Stat. § 626.557, Subd. 17, “Neglect” is defined as:

- The failure or omission by a caregiver to supply a vulnerable adult with care or services, including but not limited to, food, clothing, shelter, health care, or supervision which is:
 - reasonable and necessary to obtain or maintain the vulnerable adult’s physical or mental health or safety, considering the physical and mental capacity or dysfunction of the vulnerable adult; and
 - which is not the result of an accident or therapeutic conduct.
- The absence or likelihood of absence of care or services, including but not limited to, food, clothing, shelter, health care, or supervision necessary to maintain the physical and mental health of the vulnerable adult which a reasonable person would deem essential to obtain or maintain the vulnerable adult’s health, safety, or comfort considering the physical or mental capacity or dysfunction of the vulnerable adult.

In cases of self-neglect, the CEP worker is concerned about the definition of neglect as stated above. Self-neglect is considered a category of maltreatment.

Financial Exploitation

Financial exploitation is defined as in breach of a fiduciary obligation recognized elsewhere in law, including pertinent regulations, contractual obligations, documented consent by a competent person, or the obligations of a responsible party. A person engages in unauthorized expenditure of funds entrusted to the actor by the VA which results or is likely to result in detriment to the vulnerable adult; or fails to use the financial resources of the VA to provide food, clothing, shelter, health care, therapeutic conduct or supervision for the VA, and the failure results, or is likely to result, in detriment to the VA. In the absence of legal authority a person willfully uses, withholds, or disposes of funds or property of a VA; obtains for the actor or another the performance of services by a third person for the wrongful profit or advantage of the actor

or another to the detriment of the VA; acquires possession or control of, or an interest in, funds or property of a VA through the use of undue influence, harassment, duress, deception, or fraud; or forces, compels, coerces, or entices a VA against the VA's will to perform services for the profit or advantage of another.

Common concerns arising in vulnerable adult financial abuse involve issues regarding: 1) the relationship between the vulnerable adult and supposed perpetrator; and 2) biological factors that may impair the victim's ability to know and understand what was happening. If a relationship was manipulated in order to defraud or financially exploit the victim, it is important to determine whether the psychological and social elements of undue influence were present. If there was no misuse of a relationship, then the financial abuse is usually considered to be a form of theft or consumer fraud – ex. identity theft, Internet scams, embezzlement, etc.

In 2009, clarifying language was added to Minn. Stat. § 626.557 Subd. 5. This language clarified the assurance for immunity to financial institutions for good faith reporting. Subd. 5a was added allowing permissive language to share financial records with lead investigative agencies, law enforcement and prosecuting authority. Subd. 20 added a private right of action for victims of financial exploitation.

Mississippi

Physical Abuse

Indicators such as beating, slapping, kicking, rough handling, or other abuse causing welts, cuts, burns, abrasions, sprains, bruises, dislocations, fractures or broken bones.

Neglect by Caregiver/Others

Indicators such as lack of supervision, failure to give medicine, food or personal care, not attending to bed sores.

Self-Neglect

Indicators such as inability to provide self-care (i.e. cook, eat, bathe), overmedication/undermedication, untreated medical or mental conditions, aimless wandering, causing fires.

Psychological/Emotional Abuse

Indicators such as verbal threats or insults, cursing, belittling, withholding companionship or isolation.

Sexual Abuse

Indicators such as Sexually Transmitted Diseases (STDs), pregnancy, bruises, bleeding, pain or itching in genital or anal areas, difficulty in walking or sitting.

Financial Abuse/Exploitation

Indicators such as mismanaging money or stealing property, savings, credit cards, unusual activity in bank accounts, misuse of assets by a representative payee.

Missouri

Abuse

The infliction of physical, sexual, or emotional injury or harm including financial exploitation by any person, firm, or corporation.

Neglect

The failure to provide services to an eligible adult by any person, firm or corporation with a legal or contractual duty to do so, when such failure presents either an imminent danger to the health, safety, or welfare of the client or a substantial probability that death or serious physical harm would result.

Financial Exploitation

A person commits the crime of financial exploitation of an elderly or disabled person if such person knowingly and by deception, intimidation, or force obtains control over the elderly or disabled person's property with the intent to permanently deprive the elderly or disabled person of the use, benefit or possession of his or her property thereby benefiting such person or detrimentally affecting the elderly or disabled person.

Bullying

Intimidation or harassment that causes a reasonable person to fear for his or her physical safety or property and may consist of physical actions including gestures; cyberbullying; oral, electronic, or written communication; and any threat of retaliation for reporting of such acts.

Types of Exploitation

Type I— (Personal Relationship)

An elderly or disabled adult is more likely to be financially exploited by someone he or she knows, such as a son, caregiver or acquaintance, rather than a stranger. A son or daughter can use a variety of exploitive methods, such as theft, mismanagement, forgery, undue influence, misrepresentation, and fraud. Often, the son, daughter or caregiver abuses and neglects a loved one in other ways besides taking his or her money.

Type II—(Strangers and Scam Artists)

Strangers also exploit the elderly and disabled. The methods they use to scam elderly and disabled adults are person-to-person confidence crimes, and mail and telephone fraud.

Montana

Abuse

Any knowing or intentional act on the part of a caregiver or any other person which results the infliction of physical or mental injury; or the deprivation of food, shelter, clothing, or services necessary to maintain the physical or mental health of an older person or a person with a disability without lawful authority, sexual abuse, or sexual exploitation of a vulnerable adult.

Physical Abuse

Death, permanent or temporary disfigurement, or impairment of any bodily organ or function.

Examples include:

- Inadequate food and drink, which may result in malnutrition, weight loss, wasting and dehydration. The person may have constipation or fecal impaction.
- Unmet physical needs such as decaying teeth or overgrown nails.
- Clothing may be in poor repair or inadequate for the season.
- Poor hygiene or inadequate skin care. The vulnerable adult may be very dirty, smell strongly of urine or be infested with lice.
- There may be a urine rash with abrasions and chafing.
- In some cases when a person is immobile, they may develop pressure areas over the pelvis, hips, heels or elbows.
- Hypothermia, recent colds, bronchitis or pneumonia.

Psychological Abuse

Conduct which is not an accident or therapeutic conduct, which produces or could reasonably be expected to produce emotional distress including, but not limited to, use of repeated or malicious oral, written, or gestured language toward a vulnerable adult or treatment of a vulnerable adult which would be considered by a reasonable person to be disparaging, derogatory, humiliating, harassing, or threatening; use of any aversive or deprivation procedure, unreasonable confinement, or involuntary seclusion, including the forced separation of the vulnerable adult from other persons against the will of the vulnerable adult or the legal representative of the vulnerable adult; and use of any aversive or deprivation procedures for a vulnerable adult.

Psychological abuse can range from name calling or giving the "silent treatment" to intimidating and threatening the individual. When a family member, a caregiver or another person behaves in a way that causes fear, mental anguish or emotional pain or distress, the behavior can be regarded as abusive. Verbal and emotional abuse can include yelling, swearing and making insulting or disrespectful comments. Psychological abuse involves any type of coercive or

threatening behavior that sets up a power differential between the vulnerable adult and his or her family member or caregiver. It can also include treating the vulnerable adult like a child and isolating the person from family, friends and regular activities-through force, threats or manipulative behavior.

Signs and symptoms of emotional/psychological abuse include but are not limited to:

- being emotionally upset or agitated;
- being extremely withdrawn and non-communicative or non-responsive;
- unusual behavior usually attributed to dementia (e.g., sucking, biting, rocking); and/or
- a vulnerable adult's report of being verbally or emotionally mistreated. Examples include inadequate supervision particularly when caring for someone with a dementia, the person is abandoned or left unattended for long periods or locked in the house without any supervision.

Medical Abuse

Intentional withholding of prescribed medication; assistive technology such as a walker or reaching device; or attention from medical personnel when needed, intentional over dosing of medications

Sexual Abuse

Sexual abuse refers to any action that pressures or coerces someone to do something sexually they don't want to do. It can also refer to behavior that impacts a person's ability to control their sexual activity or the circumstances in which sexual activity occurs, including oral sex, rape or restricting access to birth control and condoms. It is important to know that just because the victim "didn't say no," doesn't mean that they meant "yes." When someone does not resist an unwanted sexual advance, it doesn't mean that they consented. Sometimes physically resisting can put a victim at a bigger risk for further physical or sexual abuse. Some examples of sexual assault and abuse are:

- unwanted kissing or touching;
- unwanted rough or violent sexual activity;

- rape or attempted rape;
- refusing to use condoms or restricting someone's access to birth control;
- keeping someone from protecting themselves from sexually transmitted infections (STIs);
- sexual contact with someone who is very drunk, drugged, unconscious or otherwise unable to give a clear and informed "yes" or "no;"
- threatening someone into unwanted sexual activity;
- pressuring or forcing someone to have sex or perform sexual acts; and/or
- using sexual insults toward someone.

Neglect

The failure of a person who has assumed legal responsibility or a contractual obligation for caring for vulnerable adult or who has voluntarily assumed responsibility for the person's care, including an employee of a public or private residential institution, facility, home, or agency, to provide food, shelter, clothing, or services necessary to maintain the physical or mental health of a vulnerable adult to such an extent that there is actual physical injury to a vulnerable adult or imminent danger of the vulnerable adult suffering physical injury or death.

Financial Neglect

Unintentional yet inadequate management of financial obligations or property such as neglecting to pay bills on time, balance checking accounts, resulting in financial consequences or negative consequences such as power or water being shut off.

Physical Neglect

Action or lack of action that could lead to death, permanent or temporary disfigurement, or impairment of any bodily organ or function. Examples include: Inadequate food and drink, which may result in malnutrition, weight loss, wasting and dehydration. The person may have constipation or fecal impaction. Unmet physical needs such as decaying teeth or overgrown nails.

Clothing may be in poor repair or inadequate for the season. Poor hygiene or inadequate skin care. The vulnerable adult may be very dirty, smell strongly of urine or be infested with lice. There may be a urine rash with abrasions and chafing. In some cases when a person is immobile, they may develop pressure areas over the pelvis, hips, heels or elbows. Hypothermia, recent colds, bronchitis or pneumonia.

Medical Neglect

An identifiable weakening of a person's medical functioning or well-being due to inadequate medication management, improper wound care, inadequate medical aftercare, inability to assist vulnerable adults in obtaining or maintaining medical care or treatment. Examples include:

- Inadequate or inappropriate use of medication, for instance, the person may be over-sedated in the middle of the day.
- The person may not be provided with necessary aids such as spectacles, dentures, hearing aids or a walking frame.

Psychological Neglect

Demonstrated by a lack of basic emotional support, respect, and love, such as:

- not attending to the vulnerable adult; ignoring moans, calls for help, or hospital call bells;
- inattention to the vulnerable adult's need for affection to failure to provide necessary psychological care to the vulnerable adult, such as therapy or medications for depression;
- isolation of the vulnerable adult from the outer world, including restriction of phone calls, mail, visitors, and outings; and/or
- lack of assistance in doing interesting activities, such as watching preferred television programs or going out for cultural or intellectual activities.

Self-Neglect

That as a result of an adult's inability, due to physical and/or mental impairments or diminished capacity, s/he is unable to perform essential self-care tasks or obtain essential services to such an extent that there is actual physical injury or imminent danger of physical injury or death.

Essential services

Those services necessary to safeguard the person or property of a vulnerable adult. Such services shall include, but not be limited to, sufficient and appropriate food and clothing, temperate and sanitary shelter, treatment for physical needs, and proper supervision.

Essential Self-Care Tasks

Include, but are not limited to, providing essential food, clothing, shelter and medical care; and obtaining goods and services necessary to maintain physical health, mental health, and general safety, and/or managing financial affairs. Inability to manage financial affairs is considered self-neglect only to the extent that it impairs the vulnerable adult's ability to provide him/herself with food, clothing, shelter, and medical care to the extent that the vulnerable adult's health and/or safety are at imminent threat.

Lack of Essential Food or Nutrition

The vulnerable adult is unable to provide appropriate food or declines food and liquids AND this pattern is likely to result in physical injury to the vulnerable adult as evidenced by emaciation, malnutrition, dehydration, or weight loss. Include vulnerable adults who do not procure food in adequate amounts, regular intervals, appropriate forms (e.g., pureed), and of sufficient nutritional value to sustain functioning, which results in injury or imminent danger of injury or death (e.g., malnutrition and dehydration). Clothing and hygiene: failure to provide for physical hygiene means the vulnerable adult is unable to provide care for his/her need for physical hygiene. This lack of hygiene will likely lead to serious physical health complications for the vulnerable adult as evidenced by severe rashes, ulcers, bedsores, tooth decay, avoidance by others, etc. Also include failure to procure clothing that is adequate to the weather conditions, resulting in severe sunburn, frostbite, etc.

- Shelter and environment: lack of shelter means the vulnerable adult is unable to provide shelter that is free from hazards, or has shelter that jeopardizes his/her physical safety. This may include but is not limited to:
 - situations where wiring is exposed;
 - inadequate heat/cooling for the weather and the vulnerable adult's needs;
 - significant broken glass in living areas;

- no access to water for drinking, cooking, or bathing;
- feces, urine, or rotting garbage in living areas; and/or
- no access to toilet facilities.

Exploitation

The unreasonable use of an older person or an adult person with a disability or of a power of attorney, conservatorship, or guardianship with regard to an older person or a person with a disability in order to obtain control of or to divert to the advantage of another the ownership, use, benefit, or possession of or interest in the person's money, assets, or property by means of deception, duress, menace, fraud, undue influence, or intimidation with the intent or result of permanently depriving the older person or person with a developmental disability of the ownership, use, benefit, or possession of or interest in the person's money, assets, or property:

Financial Exploitation

The unreasonable use of an older person or a person with a disability or of a power of attorney, conservatorship, or guardianship with regard to an older person or a person with a developmental disability done in the course of an offer or sale of insurance or securities in order to obtain control of or to divert to the advantage of another the ownership, use, benefit, or possession of the person's money, by means of deception, duress, menace, fraud, undue influence, or intimidation with the intent or result of permanently depriving the older person or person with a disability of the ownership, use, benefit, or possession of the person's money, assets, or property.

Property exploitation

An act taken by a person who has the trust and confidence of an older person or a person with a disability to obtain control of or to divert to the advantage of another the ownership, use, benefit, or possession of or interest in the person's assets, or property by means of deception, duress, menace, fraud, undue influence, or intimidation with the intent or result of permanently depriving the older person or person with a disability of the ownership, use, benefit, or possession of or interest in the person's money, assets, or property.

Nebraska

Physical Abuse

Includes cruel punishment and other knowing or intentional actions resulting in physical injury. Physical injury shall mean damage caused by nontherapeutic conduct to bodily tissue including, but not limited to, fractures, bruises, lacerations, internal injuries, or dislocations; and shall include, but not be limited to, physical pain, illness, or impairment of physical function (Neb. Rev. Stat. § 28-363). Therapeutic contact includes both conventional medical intervention and alternative medicine and cultural practices (e.g., cupping and coining). When determining if an action caused physical pain, consider whether the alleged victim gave any indication of pain (e.g., statement of pain, crying out, grimacing) and if a reasonable person would expect the action to result in pain (e.g., slapping, pushing into a wall, rough transferring). Include allegations of physical injury that resulted in the death of the alleged victim. Cruel punishment is punishment that intentionally causes physical injury to a vulnerable adult (Neb. Rev. Stat. § 28-354). Cruel punishment shall include force-feeding or requiring the vulnerable adult to consume non-food items or inappropriate amounts of food, water, or nonfood items; withholding of food, water, or required care; or use of sadistic measures or weapons with the intent to punish the vulnerable adult. Intent may be indicated by a knowing and purposeful action to cause harm or pain. Examples include, but are not limited to, striking a vulnerable adult in retaliation for the vulnerable adult's action or inaction, scapegoating a vulnerable adult and singling them out for physical harm, and habitual actions toward the vulnerable adult that cause or are likely to cause physical injury.

Unreasonable Confinement

Confinement that intentionally causes physical injury to a vulnerable adult (Neb. Rev. Stat. § 28-370). Physical injury shall mean damage caused by nontherapeutic conduct to bodily tissue including, but not limited to, fractures, bruises, lacerations, internal injuries, or dislocations. Physical injury also includes, but is not limited to, physical pain, illness, or impairment of physical function (Neb. Rev. Stat. § 28-363). Unreasonable confinement includes, but is not limited to:

- the use of chemical or bodily restraints without a legal authority (e.g., under doctor's recommendation);
- restraint for a reasonable period when the alleged victim is in immediate danger of harming self or others or outside of state/federal regulations;

- the improper use of medications resulting in a person becoming physically incapacitated or confined;
- false imprisonment, or knowingly restraining a person without legal authority;
- restraining or abducting another person under terrorizing circumstances or under circumstances that expose the person to the risk of serious bodily injury;
- the intent to hold the vulnerable adult in a condition of involuntary servitude (including forcing a vulnerable adult to perform labor against his/her will) (Neb. Rev. Stat. § 28-314 to 28-315); and
- any restraint or abduction of a vulnerable adult that presents a high risk of serious bodily injury.

Meth Exposure

Any person has knowingly or intentionally caused or permitted a vulnerable adult to inhale, ingest, or have contact with:

- methamphetamine;
- any chemical intended for use in methamphetamine production; or
- any object used or intended to be used in manufacturing, injecting, ingesting, inhaling, or otherwise introducing methamphetamine into the human body (Neb. Rev. Stat. § 28-457).

Exclude situations in which a vulnerable adult has been given medication that could be used in methamphetamine production under the advice of a medical professional.

Sexual Abuse

Includes sexual assault, which means a vulnerable adult has been subjected to sexual penetration or sexual contact without his/her consent or when the alleged perpetrator knew or should have known the alleged victim was physically or mentally incapable of resisting or appraising the nature of his/her conduct (Neb. Rev. Stat. § 28-367, Neb. Rev. Stat. § 28-319 or 28320, and Neb. Rev. Stat. § 28-703). Examples of sexual abuse include, but are not limited to, fondling, sexual

intercourse, and sexual stimulation (See Neb. Rev. Stat. Sections 28-317 to 28-321, 28-367, and 28-703). Sexual abuse also includes incest, which mean intermarriage or sexual penetration between parents and children, grandparents, and grandchildren of every degree, between brothers and sisters of the half as well as the whole blood, and between uncles and nieces, aunts and nephews (Neb. Rev. Stat. § 28-702). When both parties involved have mental impairments, also consider if Neglect-Supervision (see Neglect) applies.

Sexual Exploitation

Includes any person causing, allowing, permitting, inflicting, or encouraging a vulnerable adult to engage in voyeurism, exhibitionism, or prostitution; or in the production or distribution of lewd, obscene, or pornographic photographs, films, or other depictions (Neb. Rev. Stat. § 28-367.01). Sexual exploitation also includes unlawful intrusion, which means any person knowingly intrudes upon any other person without his/her consent or knowledge in a place of solitude or seclusion by viewing or recording by video, audio, or other electronic means, a person in a state of undress in a place where a person would intend to be in a state of undress and have a reasonable expectation of privacy, including, but not limited to, the person's home; and any facility, public or private, used as a restroom, tanning booth, locker room, shower room, fitting room, or dressing room (Neb. Rev. Stat. § 28-311.08).

Neglect

Any knowing or intentional act or omission on the part of a caregiver to provide essential services to such an extent that there is actual physical injury or imminent danger of physical injury or death (Neb. Rev. Stat. § 28-311.08). Imminent danger means exposure to serious injury, pain, death, significant harm, or loss is likely to occur and requires intervention to be avoided. Essential services shall mean those services necessary to safeguard the person or property of a vulnerable adult. Such services shall include, but not be limited to, sufficient and appropriate food and clothing, temperate and sanitary shelter, treatment for physical needs, and proper supervision (Neb. Rev. Stat. § 28-357).

- **Food.** Lack of essential food or nutrition means the caregiver does not provide sufficient or appropriate food or withholds food from a vulnerable adult, AND this pattern is likely to result in physical injury to the vulnerable adult as evidenced by emaciation, malnutrition, dehydration, or weight loss. Include caregivers who do not provide food in adequate amounts, regular intervals, appropriate forms (e.g., pureed), and of sufficient

nutritional value to sustain functioning, which results in injury or imminent danger of injury or death (e.g., malnutrition and dehydration).

- Clothing/hygiene. Failure to provide for physical hygiene means the caregiver does not provide care for the vulnerable adult's need for physical hygiene. This lack of hygiene is likely to result in serious risk to the physical health of the vulnerable adult as evidenced by severe rashes, ulcers, bedsores, tooth decay, avoidance by others, etc. Also include failure to provide clothing that is adequate to the weather conditions, resulting in severe sunburn, frostbite, etc.
- Shelter/environment. Lack of shelter means the caregiver does not provide shelter that is free from hazards, or the shelter provided jeopardizes the physical safety of the vulnerable adult. This may include but is not limited to:
 - situations where wiring is exposed;
 - inadequate heat/cooling for the weather and vulnerable adult's needs;
 - significant broken glass in the living area;
 - no access to water for drinking, cooking, or bathing;
 - feces, urine, or rotting garbage in living areas;
 - no access to toilet facilities; and
 - hoarding or infestations that result in illness or health or safety hazards, etc.

Include any situation in which the physical living conditions have resulted in physical injury or death.
- Medical/behavioral health care. Failure to provide treatment means the caregiver's pattern of refusing or failing to seek/obtain medical treatment or rehabilitative care for the vulnerable adult's conditions that have potentially injurious, life-threatening, or long-term health effects. Examples include failure to provide appropriate medication, medical or dental care, or speech or physical therapy; and failure to provide prescribed care for substance abuse and mental health issues when there is potential for lifelong negative impact. Include allegations that a facility has discharged a vulnerable adult due to unpaid bills when residence in the facility is essential to the care and/or safety of the vulnerable adult, and accidental injuries that result from the improper use of equipment or deviations from established care protocols. If the reporter or caregiver suggests the caregiver is not providing treatment or rehabilitative care due to the caregiver's beliefs and disregards the vulnerable adult's direction, the report should be accepted if it meets the definition above. If the reporter or caregiver suggests treatment or rehabilitative care is not being provided because the vulnerable adult is refusing due to his/her religious or cultural beliefs, the report should be accepted if it meets the definition above. The investigator will determine if the spiritual means for treatment are of a recognized church or religious denomination (Neb. Rev. Stat. § 28-383). When the vulnerable adult retains

capacity to make decisions regarding his/her care and refuses to comply with caregiver efforts to procure and provide care, consider Self-Neglect.

- Proper supervision/elopement. Proper supervision shall mean care and control of a vulnerable adult that a reasonable and prudent person would exercise under similar facts and circumstances (Neb. Rev. Stat. § 28-364). The caregiver fails to provide supervision appropriate to the vulnerable adult’s age, development, and the circumstances as evidenced by:
 - a vulnerable adult, unable to care for him/herself, is left alone;
 - a vulnerable adult has eloped from home or a facility and been injured or placed in imminent danger, or has eloped multiple times from the same living situation;
 - a facility has had multiple elopements;
 - caregiver placed supervision responsibility with a person unwilling or incapable of providing for the vulnerable adult’s basic or special needs;
 - facilities have not appropriately supervised residents to the extent that residents of the facility are alleged perpetrators of serious harm to other residents;
 - abandonment, meaning that a vulnerable adult is without an appropriate caregiver due to the act or decision of the responsible person not to care for the vulnerable adult; and/or
 - caregiver cannot or will not provide supervision due to substance abuse, mental illness, or other behaviors. If a caregiver uses physical force while supervising a vulnerable adult that does not result in injury, but may reasonably be expected to result in injury, this is also considered lack of proper supervision. (If injury does occur, consider one of the allegations under physical abuse.)

Exploitation

Exploitation means the taking of property of a vulnerable adult by any person through undue influence, breach of a fiduciary relationship, deception, extortion, or by any unlawful means (Neb. Rev. Stat. § 28-358). Fiduciary relationship means a legal relationship in which one person holds a position of trust with respect to another person, including a personal representative, payee, guardian, conservator, or trustee without regard to the length of the relationship or task.

Financial Exploitation

Any person has taken the financial assets of a vulnerable adult through undue influence, breach of a fiduciary relationship, deception, extortion, or any unlawful means. The allegation of financial exploitation includes both financial assets and means. Both elements must be present

to indicate this allegation: Financial assets include, but are not limited to cash; access to bank accounts; credit cards; stock and bond funds/accounts; debt taken out in the vulnerable adult's name (e.g., mortgage, car loan, etc.); social Security benefits; retirement accounts; and/or insurance.

Means include, but are not limited to:

- Undue influence, in which a person uses his/her role, relationship, or power relative to the vulnerable adult to persuade a vulnerable adult to make decisions contrary to his/her own interest.
- Breach of a fiduciary relationship, in which a person with a relationship of trust with respect to the vulnerable adult violates that relationship, such as a person with signatory authority on a vulnerable adult's account who removes funds from the account without permission/knowledge of the vulnerable adult.
- Deception, in which a person lies about circumstances to persuade a vulnerable adult to transfer financial resources, e.g., telling the vulnerable adult that he/she needs funds to cover medical expenses that do not exist.
- Extortion, in which a person obtains payment from the vulnerable adult through coercion, which includes blackmail and threats of physical violence
- Any other means including theft, identity theft, and forgery.

Property Exploitation

Any person has taken the property of a vulnerable adult through undue influence, breach of a fiduciary relationship, deception, extortion, or any unlawful means. The allegation of property exploitation includes both property and means. Both elements must be present to indicate this allegation: Property includes, but is not limited to real estate; automobiles; jewelry; medication; furniture; art; personal possessions; and/or any physical property.

Means include, but are not limited to:

- Undue influence, in which a person uses his/her role, relationship, or power relative to the vulnerable adult to persuade a vulnerable adult to make decisions contrary to his/her own interest.
- Breach of a fiduciary relationship, in which a person with a legal relationship of trust with respect to the vulnerable adult violates that relationship, such as a person who

transfers ownership of the vulnerable adult's home to him/herself without the vulnerable adult's knowledge or consent.

- Deception, in which a person lies about circumstances to persuade a vulnerable adult to transfer financial resources, e.g., telling the vulnerable adult that transferring assets will help the vulnerable adult's tax situation.
- Extortion, in which a person obtains property from the vulnerable adult through coercion, which includes blackmail and threats of physical violence.
- Any other means including theft, identity theft, and forgery.

Self-Neglect

Self-neglect means that due to physical and/or mental impairments or diminished capacity, an adult is unable to perform essential self-care tasks or obtain essential services to such an extent that there is actual physical injury or imminent danger of physical injury or death (Neb. Rev. Stat. § 28-361.01). Essential services shall mean those services necessary to safeguard the person or property of a vulnerable adult. Such services shall include, but not be limited to, sufficient and appropriate food and clothing, temperate and sanitary shelter, treatment for physical needs, and proper supervision (28-357). Essential self-care tasks include, but are not limited to, providing essential food, clothing, shelter and medical care; and obtaining goods and services necessary to maintain physical health, mental health, and general safety, and/or managing financial affairs. Inability to manage financial affairs is considered self-neglect only to the extent that it impairs the vulnerable adult's ability to provide him/herself with food, clothing, shelter, and medical care to the extent that the vulnerable adult's health and/or safety are at imminent threat (Neb. Rev. Stat. § 28-357).

- Food. Lack of essential food or nutrition means the vulnerable adult is unable to provide appropriate food or declines food and liquids AND this pattern is likely to result in physical injury to the vulnerable adult as evidenced by emaciation, malnutrition, dehydration, or weight loss. Include vulnerable adults who do not procure food in adequate amounts, regular intervals, appropriate forms (e.g., pureed), and of sufficient nutritional value to sustain functioning, which results in injury or imminent danger of injury or death (e.g., malnutrition and dehydration).
- Clothing/hygiene. Failure to provide for physical hygiene means the vulnerable adult is unable to provide care for his/her need for physical hygiene. This lack of hygiene will likely lead to serious physical health complications for the vulnerable adult as evidenced by severe rashes, ulcers, bedsores, tooth decay, avoidance by others, etc. Also include failure

to procure clothing that is adequate to the weather conditions, resulting in severe sunburn, frostbite, etc.

- Shelter/environment. Lack of shelter means the vulnerable adult is unable to provide shelter that is free from hazards or has shelter that jeopardizes his/her physical safety. This may include but is not limited to:
 - situations where wiring is exposed;
 - inadequate heat/cooling for the weather and the vulnerable adult's needs;
 - significant broken glass in living areas;
 - no access to water for drinking, cooking, or bathing;
 - feces, urine, or rotting garbage in living areas;
 - no access to toilet facilities; and
 - hoarding that results in health or safety hazards, etc. Include any situation in which the physical living conditions have resulted in physical injury or death. Also include situations in which the vulnerable adult cannot manage resources to the extent that physical injury or death is imminent due to utility shut-offs or eviction.
- Medical/behavioral health care. Failure to provide treatment means the vulnerable adult's pattern of refusing or failing to seek/obtain medical treatment or rehabilitative care for his/her conditions that have potential injurious, life threatening, or long-term health effects. Examples include failure to take appropriate medication, failure to seek or comply with medical or dental care or speech or physical therapy, and failure to follow prescribed care for substance abuse and mental health issues when there is potential for lifelong negative impact.

Nevada

Abandonment

- Desertion of an older person or a vulnerable person in an unsafe manner by a caretaker or other person with a legal duty of care; or
- withdrawal of necessary assistance owed to an older person or a vulnerable person by a caretaker or other person with an obligation to provide services to the older person or vulnerable person.

Abuse

Abuse means willful:

- Infliction of pain or on an older person or a vulnerable person;

- deprivation of food, shelter, clothing or services which are necessary to maintain the physical or mental health of an older person or a vulnerable person;
- infliction of psychological or emotional anguish, pain or distress on an older person or a vulnerable person through any act, including, without limitation:
 - threatening, controlling or socially isolating the older person or vulnerable person;
 - disregarding the needs of the older person or vulnerable person; or
 - harming, damaging or destroying any property of the older person or vulnerable person, including, without limitation, pets; and/or
- nonconsensual sexual contact with an older person or a vulnerable person, including, without limitation:
 - an act that the older person or vulnerable person is unable to understand or to which the older person or vulnerable person is unable to communicate his or her objection;
 - intentional touching, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh or buttocks of the older person or vulnerable person; or
 - permitting any of the acts described in paragraphs above inclusive, to be committed against an older person or a vulnerable person.

Emotional/Psychological Abuse

Emotional/psychological abuse means willful:

- infliction of psychological or emotional anguish, pain or distress on an older person or a vulnerable person through any act, including, without limitation:
 - threatening, controlling or socially isolating the older person or vulnerable person;
 - disregarding the needs of the older person or vulnerable person; or
 - harming, damaging or destroying any property of the older person or vulnerable person, including, without limitation, pets; and/or
- intentional or knowing verbal or nonverbal conduct directed at an older person including ridiculing, intimidating, yelling, swearing, threatening, isolating, coercing,

harassing, or other forms of intimidating behavior that results or could result in the older person suffering mental anguish or emotional distress, including fear, humiliation, degradation, agitation, confusion, or isolation.

Exploitation

- Any act taken by a person who has the trust and confidence of an older person or a vulnerable person or any use of the power of attorney or guardianship of an older person or a vulnerable person to:
 - obtain control, through deception, intimidation, or undue influence, over the older person's or vulnerable person's money, assets or property with the intention of permanently depriving the older person or vulnerable persons of ownership, use, benefit or possession of his money, assets or property; or
 - convert money, assets or property of the older person or vulnerable person with the intention of permanently depriving the older person or vulnerable person of the ownership, use, benefit or possession of his money, assets or property.
- As used in this subsection, "undue influence" means the improper use of power or trust in a way that deprives a person of his or her free will and substitutes the objectives of another person. The term does not include the normal influence that one member of a family has over another.

Isolation

Preventing an older person or vulnerable person from having contact with another person by:

- intentionally preventing an older or vulnerable person from receiving his visitors, mail or telephone calls, including, without limitation, communicating to a person who comes to visit the older person or vulnerable person or a person who telephones the older person or vulnerable person that the older person or vulnerable person is not present or does not want to meet with or talk to the visitor or caller knowing that the statement is false, contrary to the express wishes of the older person or vulnerable person and intended to prevent the older person or vulnerable person from having contact with the visitor;

- physically restraining the older person or vulnerable person to prevent the older person or vulnerable person from meeting with a person who comes to visit the older person or vulnerable person. The term does not include an act intended to protect the property or physical or mental welfare of the older person or vulnerable person or an act performed pursuant to the instructions of a physician of the older person or vulnerable person; or
- permitting any of the acts described in paragraphs (a) and (b) to be committed against an older person or a vulnerable person.

The term does not include an act intended to protect the property or physical or mental welfare of the older person or vulnerable person or an act performed pursuant to the instructions of a physician of the older person or vulnerable person.

Neglect

Failure of a person or a manager of a facility who has assumed legal responsibility or a contractual obligation for caring for an older person or who has voluntarily assumed responsibility for his or her care to provide food, shelter, clothing or services which are necessary to maintain the physical or mental health of the older person.

Self-Neglect

The failure of an older person to provide food, water, medication, health care, shelter, cooling, heating, safety, or other services necessary to maintain the older person's wellbeing when that failure is the result of mental or physical impairment.

New Hampshire

Emotional Abuse

The misuse of power, authority, or both, verbal harassment, or unreasonable confinement which results or could result in the mental anguish or emotional distress of an incapacitated adult.

Physical Abuse

The use of physical force which results or could result in physical injury to an incapacitated adult.

Sexual Abuse

Contact or interaction of a sexual nature involving an incapacitated adult without his or her informed consent.

Exploitation

As defined in RSA 161-F:43, IV, namely “the illegal use of an incapacitated adult’s person or property for another person’s profit or advantage, or the breach of a fiduciary relationship through the use of a person or a person’s property for any purpose not in the proper and lawful execution of a trust, including, but not limited to, situations where a person obtains money, property or services from an incapacitated adult through the use of undue influence, harassment, duress, deception, or fraud.”

Neglect

As defined in RSA 161-F:43, III, namely “an act or omission which results or could result in the deprivation of essential services or supports necessary to maintain the minimum mental, emotional or physical health and safety of an incapacitated adult.

Self-Neglect

As defined in RSA 161-F:43, VI, namely “an act or omission by an incapacitated adult which results or could result in the deprivation of essential services or supports necessary to maintain his or her minimum mental, emotional or physical health and safety.”

New Jersey

Abuse

The willful infliction of physical pain, injury or mental anguish, unreasonable confinement, or the willful deprivation of services which are necessary to maintain a person's physical and mental health.

Exploitation

The act or process of illegally or improperly using a person or his resources for another person's profit or advantage.

Neglect

An act or failure to act by a vulnerable adult or his caretaker which results in the inadequate provision of care or services necessary to maintain the physical and mental health of the vulnerable adult, and which places the vulnerable adult in a situation which can result in serious injury or which is life-threatening.

New Mexico

Abuse

- Knowingly, intentionally or negligently and without justifiable cause inflicting physical pain, injury or mental anguish;
- the intentional deprivation by a caretaker or other person of services necessary to maintain the mental and physical health of an adult; or
- sexual abuse including criminal sexual contact, incest and criminal sexual penetration.

Neglect

In order to [SCREEN-IN] a report during this step, neglect alleged by an individual does not necessarily need to be that done by a caregiver, paid or otherwise, the allegation of neglect should be enough to constitute a screen-in if the person is also alleged to be incapacitated. Substantiation of neglect during the investigation is determined differently.

Self-Neglect

The inability of an individual to provide for their own basic and essential supports to maintain mental, emotional, physical health and/or safety which is due in part by their incapacity-- Mental, physical and/or developmental.

Exploitation

Unjust or improper use of a person's money or property. Without investigation, it is difficult to determine if the person has the capacity to authorize such use of their money or property. As a Screening Worker, you only must decide if the person has an alleged incapacity that is/can be contributing to their vulnerability and inability to self-protect/self-care against the potential misuse of their funds and/or property.

New York**Physical Abuse**

The non-accidental use of force that results in bodily injury, pain or impairment, including but not limited to, being slapped, burned, cut, bruised or improperly physically restrained.

Sexual Abuse

Nonconsensual sexual contact of any kind, including but not limited to, forcing sexual contact or forcing sex with a third party.

Emotional Abuse

Willful infliction of mental or emotional anguish by threat, humiliation, intimidation or other abusive conduct, including but not limited to, frightening or isolating an adult.

Active Neglect

Willful failure by the caregiver to fulfill the care-taking functions and responsibilities assumed by the caregiver, including but not limited to, abandonment, willful deprivation of food, water, heat, clean clothing and bedding, eyeglasses or dentures, or health related services.

Passive Neglect

Non-willful failure of a caregiver to fulfill care-taking functions and responsibilities assumed by the caregiver, including but not limited to, abandonment or denial of food or health related services because of inadequate caregiver knowledge, infirmity, or disputing the value of prescribed services.

Self-Neglect

An adult's inability, due to physical and/or mental impairments to perform tasks essential to caring for oneself, including but not limited to, providing essential food, clothing, shelter and medical care, obtaining goods and services necessary to maintain physical health, mental health, emotional well-being and general safety; or managing financial affairs.

Financial Exploitation

Improper use of an adult's funds, property or resources by another individual, including but not limited to, fraud, false pretenses, embezzlement, conspiracy, forgery, falsifying records, coerced property transfers or denial of access to assets.

North Carolina**Abuse**

Statutorily defined as the willful infliction of physical pain, injury or mental anguish, unreasonable confinement, or the willful deprivation by a caretaker of services which are necessary to maintain mental and physical health

Neglect

An adult with disability who is either living alone and not able to provide for himself the services which are necessary to maintain his mental or physical health or is not receiving the services from his caretaker. [G.S. 108A-101(m)] This type of neglect is referred to as self-neglect or caretaker neglect.

Exploitation

Illegal or improper use of an adult with disability or his resources for another's profit or advantage. [G.S. 108A-101(j)] Financial exploitation is not the only type that should be considered. Examples of other types of exploitation include sexual exploitation and forcing an adult with disability to work without pay.

North Dakota

Abuse

Any willful act or omission of a caregiver or any other person which results in physical injury, mental anguish, unreasonable confinement, sexual abuse or exploitation, or financial exploitation to or of a vulnerable adult. N.D.C.C. § 50-25.2-01(1).

Emotional Abuse

Exists when an individual acts in a manner that produces psychological stress or distress for the vulnerable adult. Emotional abuse may exist when the caregiver or legal guardian refuses the vulnerable adult access to services necessary for well-being; when an individual subjects a vulnerable adult to terrorization, excessive humiliation or verbal abuse; when an individual threatens the vulnerable adult's family, friends, pets, or otherwise subjects the vulnerable adult to coercive measures.

Financial Exploitation

The taking or misuse of property or resources of a vulnerable adult by means of undue influence, a breach of a fiduciary relationship, deception, harassment, criminal coercion, theft, or other unlawful or improper means. Involves the use or misuse of the vulnerable adult's finances, property, or real estate without the knowledge or consent of the vulnerable adult. Financial exploitation includes extortion, embezzlement, illegal rental or sale of property, scams, fraud, theft, or abuse of property or assets. N.D.C.C. § 50-25.2-01(7).

Mental Anguish

Psychological or emotional damage that requires medical treatment or care, or is characterized by behavioral change or physical symptoms. N.D.C.C. § 50-25.2-01(10).

Neglect

The failure of a caregiver to provide essential services necessary to maintain the physical and mental health of a vulnerable adult, or the inability or lack of desire of the vulnerable adult to provide essential services necessary to maintain and safeguard the vulnerable adult's own physical and mental health. Neglect may include failure to provide hygienic living conditions; failure to administer medications properly; failure to provide adequate supervision during caregiver absences; failure to provide adequate basic needs (food, medical care, shelter); and failure to correct inadequate housing (windows broken, lack of indoor plumbing, heating). N.D.C.C. § 50-25.2-01(11).

Physical Abuse

Occurs when an individual causes physical injury to a vulnerable adult. Probable cause for physical abuse includes: bruises, abrasions, welts, cuts, broken bones, dislocations, puncture wounds, brain injury, and death. If there is probable cause for physical abuse, the worker may refer the vulnerable adult for physical examination, notify law enforcement, or otherwise ensure the safety and appropriate care for the vulnerable adult through local domestic violence programs or agencies.

Physical Injury

Damage to bodily tissue caused by non-therapeutic conduct, which includes fractures, bruises, lacerations, internal injuries, dislocations, physical pain, illness, or impairment of physical function. N.D.C.C. § 50-25.2-01(12).

Self-Neglect

The most common form of abuse and neglect in vulnerable populations, occurs when the adult, of his or her own choice, fails to provide adequate self-care. Examples of self-neglect include choosing not to take medications prescribed by a physician, choosing not to eat adequate meals and maintain nourishment; choosing to utilize finances improperly (failure to pay bills); inadequate personal hygiene (matted hair, soiled clothing).

Sexual Abuse or Exploitation

Involves using the vulnerable adult in non-consenting sexual acts, or other activities, to satisfy or arouse sexual or aggressive desires in the other initiating individual. Sexual abuse includes sexual contact, including touching of intimate body parts or penetration; sexual exploitation, using the vulnerable adult to create pornography; rape; incest; and sexual harassment. Includes sex offenses defined in North Dakota Century Code Chapters 12.1-20-02, 12.1-20-03, 12.1-20-04, 12.1-20-05, 12.1-20-06, 12.1-20-07, and 12.1-20-11. N.D.C.C. § 50-25.2-01(14).

Ohio

Abuse

- Bruises, black eyes, welts, lacerations and rope marks.
- Cuts, punctures, untreated injuries in various stages of healing.
- Sudden change in behavior; for example, emotionally upset or agitated.
- Adult is extremely withdrawn and noncommunicative or nonresponsive.
- Caregiver refuses to allow visitors to see the adult alone.
- Adult reports being hit, slapped, kicked, sexually assaulted or mistreated.

Neglect

- Hazardous or unsafe living conditions or arrangements; for example, improper wiring, no heat or running water.
- Unsanitary or unclean living conditions; for example, dirt, fleas, lice on a person, soiled bedding, fecal or urine smell, inadequate clothing.
- Dehydration, malnutrition, untreated bed sores or poor personal hygiene.
- Unattended or untreated health problems.

Exploitation

- Sudden appearance of previously uninvolved relatives claiming rights to an adult's affairs and possessions.
- Unexplained sudden transfer of assets to a family member or someone outside the family.
- Forgery of an adult's signature for financial transactions or for the titles of his or her possessions.
- Unexplained disappearance of funds or valuable possessions.
- Abrupt changes in a will or other financial documents.
- Sudden changes in bank accounts or banking practice, including unexplained withdrawals of large sums of money by a person accompanying the adult.

Oklahoma

Abandonment

The withdrawal of support or the act of deserting a vulnerable adult by a caretaker or other person responsible for the vulnerable adult's care.

Abuse

Causing or permitting the:

- infliction of physical pain, injury, sexual abuse, sexual exploitation, unreasonable restraint or confinement, or mental anguish; or
- deprivation of nutrition, clothing, shelter, health care, or other care or services without which serious physical or mental injury is likely to occur to a vulnerable adult by a caretaker or other person providing services to a vulnerable adult.

Exploitation

Unjust or improper use of the person or resources of a vulnerable adult for the profit or advantage of another person through undue influence, coercion, harassment, duress, deception, false representation, or false pretense.

Financial Neglect

Repeated instances by a caretaker or other person who has assumed the role of financial management or failure to use the resources available to restore or maintain the health and physical well-being of a vulnerable adult, including but not limited to:

- squandering or negligently mismanaging the money, property, or accounts of a vulnerable adult;
- refusing to pay for necessities or utilities in a timely manner; or
- providing substandard care to a vulnerable adult despite the availability of adequate financial resources.

Indecent Exposure

Forcing or requiring a vulnerable adult to:

- look upon the body or private parts of another person or upon sexual acts performed in the presence of the vulnerable adult; or
- touch or feel the body or private parts of another person.

Maltreatment

Abuse, neglect, self-neglect, financial exploitation, sexual exploitation, financial neglect, abandonment, or verbal abuse.

Neglect

- Failure to provide protection for a vulnerable adult who is unable to protect his or her own interest;
- failure to provide adequate shelter, nutrition, health care, or clothing for a vulnerable adult; or
- negligent acts or omissions that result in harm or unreasonable risk of harm to a vulnerable adult through action or inaction, or lack of supervision by a caretaker providing direct services.

Self-Neglect

Neglect brought about by a vulnerable adult's own actions or inactions which causes the vulnerable adult to fail to meet the essential requirements for physical or mental health and safety due to the vulnerable adult's lack of awareness, incompetence, or incapacity.

Sexual Abuse

- Oral, anal, or vaginal penetration of a vulnerable adult by or through the union with the sexual organ of a caretaker or other person providing services to the vulnerable adult, or the anal or vaginal penetration of a vulnerable adult with any other object by a caretaker or other person providing services to the vulnerable adult;

- for the purpose of sexual gratification, the touching, feeling, or observation of the body or private parts of a vulnerable adult by a caretaker or other person providing services to the vulnerable adult; or
- indecent exposure by a caretaker or other person providing services to the vulnerable adult.

Sexual Exploitation

Includes, but is not limited to, a caretaker causing, allowing, permitting, or encouraging a vulnerable adult to engage in prostitution or in lewd, obscene, or pornographic photographing, filming, or depiction of the vulnerable adult as those acts are defined by Oklahoma law.

Undue Influence

The substitution of one person's will for the true desires of another.

Verbal Abuse

the use of words, sounds, or other communication including, but not limited to, gestures, actions, or behaviors, by a caretaker or other person providing services to a vulnerable adult that are likely to cause a reasonable person to experience humiliation, intimidation, fear, shame, or degradation.

Oregon

Physical Abuse

Physical abuse includes: (A) (i) The use of physical force that may result in bodily injury, physical pain, or impairment; or (ii) Any physical injury to an adult caused by other than accidental means. (B) Conduct that may be considered physical abuse includes, but is not limited to: (i) Acts of violence such as striking (with or without an object), hitting, beating, punching, shoving, shaking, kicking, pinching, choking, or burning; or (ii) The use of force-feeding or physical punishment. (C) Physical abuse is presumed to cause physical injury, including pain, to adults in a coma or adults otherwise incapable of expressing injury or pain.

Neglect

Including: (A) Failure to provide the basic care, or services necessary to maintain the health and safety of an adult: (i) Failure may be active or passive. (ii) Failure creating a risk of serious harm or results in physical harm, significant emotional harm or unreasonable discomfort, or serious loss of personal dignity. (iii) The expectation for care may exist as a result of an assumed responsibility or a legal or contractual agreement, including but not limited to, where an individual has a fiduciary responsibility to assure the continuation of necessary care or services. (B) An adult who in good faith is voluntarily under treatment solely by spiritual means in accordance with the tenets and practices of a recognized church or religious denomination shall, for this reason alone, not be considered subjected to abuse by reason of neglect as defined in these rules.

Abandonment

Including desertion or willful forsaking of an adult for any period of time by an individual who has assumed responsibility for providing care, when that desertion or forsaking results in harm or places the adult at risk of serious harm.

Verbal or Emotional Abuse

(A) Verbal or emotional abuse includes threatening significant physical harm or threatening or causing significant emotional harm to an adult through the use of: (i) Derogatory or inappropriate names, insults, verbal assaults, profanity, or ridicule; or (ii) Harassment, coercion, threats, intimidation, humiliation, mental cruelty, or inappropriate sexual comments. (B) For the purposes of this section: (i) Conduct that may be considered verbal or emotional abuse includes, but is not limited to, the use of oral, written, or gestured communication that is directed to an adult or within their hearing distance, regardless of their ability to comprehend. (ii) The emotional harm that may result from verbal or emotional abuse includes, but is not limited to, anguish, distress, fear, unreasonable emotional discomfort, loss of personal dignity, or loss of autonomy.

Financial Exploitation

Financial exploitation including: (a) Wrongfully taking, by means including, but not limited to, deceit, trickery, subterfuge, coercion, harassment, duress, fraud, or undue influence, the assets,

funds, property, or medications belonging to or intended for the use of an adult; (b) Alarming an adult by conveying a threat to wrongfully take or appropriate money or property of the adult if the adult reasonably believes that the threat conveyed maybe carried out; (c) Misappropriating or misusing any money from any account held jointly or singly by an adult; or Page 5 of 36 (d) Failing to use income or assets of an adult for the benefit, support, and maintenance of the adult.

Sexual Abuse

Sexual abuse including: (a) Sexual contact with a non-consenting adult or with an adult considered incapable of consenting to a sexual act. Consent, for purposes of this definition, means a voluntary agreement or concurrence of wills. Mere failure to object does not, in and of itself, constitute an expression of consent; (b) Verbal or physical harassment of a sexual nature, including but not limited to severe, threatening, pervasive or inappropriate exposure of an adult to sexually explicit material or language; (c) Sexual exploitation of an adult; (d) Any sexual contact between an employee of a facility and an adult residing in the facility; (e) Any sexual contact that is achieved through force, trickery, threat, or coercion; or (f) An act that constitutes a crime under ORS 163.375, 163.405, 163.411, 163.415, 163.425, 163.427, 163.465, 163.467, or 163.525 except for incest due to marriage alone.

Involuntary Seclusion

Involuntary seclusion of an adult for the convenience of a caregiver or to discipline the adult. (A) Involuntary seclusion may include: (i) Confinement or restriction of an adult to his or her room or a specific area; or (ii) Placing restrictions on an adult's ability to associate, interact, or communicate with other individuals. Page 6 of 36 (B) In a facility, emergency or short-term, monitored separation from other residents may be permitted if used for a limited period of time when: (i) Used as part of the care plan after other interventions have been attempted; (ii) Used as a de-escalating intervention until the facility evaluates the behavior and develops care plan interventions to meet the resident's needs; or (iii) The resident needs to be secluded from certain areas of the facility when their presence in that specified area poses a risk to health or safety.

Wrongful Use of a Physical or Chemical Restraint of an Adult

(A) A wrongful use of a physical or chemical restraint includes situations where: (i) A licensed health professional has not conducted a thorough assessment before implementing a licensed physician's prescription for restraint; (ii) Less restrictive alternatives have not been evaluated

before the use of the restraint; or (iii) The restraint is used for convenience or discipline. (B) Physical restraints may be permitted if used when a resident's actions present an imminent danger to self or others and only until immediate action is taken by medical, emergency, or police personnel.

Pennsylvania (Disabilities)

Abuse

- Infliction of injury, unreasonable confinement, intimidation or punishment with resulting physical harm, pain or mental anguish.
- Willful deprivation by a caregiver of goods or services which are necessary to maintain physical or mental health.
- Sexual harassment, rape or abuse as the term is defined in 23 Pa.C.S. § 6102.

Neglect

The failure to provide for oneself or the failure of a caregiver to provide goods, care or services essential to avoid clear and serious threat to the physical or mental health of an adult.

Exploitation

An act or course of conduct by a caregiver or other person against an adult or an adult's resources, without the informed consent of the adult or with consent obtained through misrepresentation, coercion or threats of force, that results in monetary, personal or other benefit, gain or profit for the perpetrators or monetary or personal loss to the adult

Abandonment

The desertion of an adult by a caregiver.

Serious Bodily Injury

Injury that:

- creates a substantial risk of death; or

- causes serious permanent disfigurement or protracted loss or impairment of the function of a body member or organ.

Serious Injury

An injury that:

- causes a person severe pain; or
- significantly impairs a person's physical or mental functioning, either temporarily or permanently.

Sexual Abuse

Intentionally, knowingly or recklessly causing or attempting to cause rape, involuntary deviate sexual intercourse, sexual assault, statutory sexual assault, aggravated indecent assault or incest, as defined by 18 Pa.C.S. (relating to crimes and offenses).

Pennsylvania (Aging)

Abandonment

The desertion of an older adult by a caretaker.

Abuse

- The occurrence of one or more of the following acts:
 - The infliction of injury, unreasonable confinement, intimidation or punishment with resulting physical harm, pain or mental anguish.
 - The willful deprivation by a caretaker of goods or services which are necessary to maintain physical or mental health.
 - Sexual harassment, rape or abuse, as defined in 23 Pa.C.S. Chapter 61 (relating to Protection from Abuse Act).
- No older adult will be found to be abused solely on the grounds of environmental factors which are beyond the control of the older adult or the caretaker, such as inadequate housing, furnishings, income, clothing or medical care.

Exploitation

An act or course of conduct by a caretaker or other person against an older adult or an older adult's resources, without the informed consent of the older adult or with consent obtained through misrepresentation, coercion or threats of force, that results in monetary, personal or other benefit, gain or profit for the perpetrator or monetary or personal loss to the older adult.

Neglect

The failure to provide for oneself or the failure of a caretaker to provide goods or services essential to avoid a clear and serious threat to physical or mental health. An older adult who does not consent to the provision of protective services will not be found to be neglected solely on the grounds of environmental factors which are beyond the control of the older adult or the caretaker, such as inadequate housing, furnishings, income, clothing or medical care.

Serious Bodily Injury

Injury which creates a substantial risk of death or which causes serious permanent disfigurement or protracted loss or impairment of the function of a body member or organ.

Serious Physical Injury

An injury that does one of the following:

- Causes a person severe pain.
- Significantly impairs a person's physical functioning, either temporarily or permanently.

Sexual Abuse

Intentionally, knowingly or recklessly causing or attempting to cause rape, involuntary deviate sexual intercourse, sexual assault, statutory sexual assault, aggravated indecent assault, indecent assault or incest.

Rhode Island**Abuse**

The subjection of an elderly person to the willful infliction of physical pain, or willful deprivation of services by a caretaker or other person with a duty of care for the elderly person. Abuse also includes neglect, abandonment, and exploitation

Physical Abuse

The willful infliction of pain or injury (e.g. slapping, bruising, sexually molesting or restraining).

Sexual Abuse

The infliction of non-consensual sexual contact of any kind. Sexual abuse includes sexual assault, rape, sexual misuse or exploitation of an elder, as well as threats of sexual abuse where the perpetrator has the intent and the capacity to carry out the threatened abuse.

Emotional Abuse

The non-accidental infliction of serious emotional injury to an elder in which there is an established relationship between the abusive actions or behaviors and the resulting effect upon the elder's emotional health or functioning. Emotional abuse includes the misuse of power, authority, or both; verbal harassment, or unreasonable confinement which results or could result in the mental anguish or emotional distress of an elder.

Neglect

The willful refusal to provide services necessary to maintain physical and mental health on the part of a caretaker or other person with a duty of care.

Abandonment

The desertion of an elderly person by a caretaker or other person with a duty of care, or the withdrawal of necessary assistance owed an elderly person by a caretaker or other person with an obligation to provide services.

Exploitation

An act or process of taking pecuniary advantage of an elderly person by use of undue influence, harassment, duress, deception, false representation or false pretenses.

South Carolina

Physical Abuse

Intentionally inflicting or allowing to be inflicted physical injury on a vulnerable adult by an act or failure to act. It includes, but is not limited to, slapping, hitting, kicking, biting, choking, pinching, burning, actual or attempted sexual battery as defined in S.C. Code Section 16-3-651, use of medication outside the standards of reasonable medical practice for controlling behavior, and unreasonable confinement. Physical abuse also includes the use of a restrictive or physically intrusive procedure to control behavior for punishment except that a therapeutic procedure prescribed by a licensed physician or other qualified professional or that is part of a written plan of care by a licensed physician or other qualified professional is not considered physical abuse. Physical abuse does not include altercations or acts of assault between vulnerable adults.

Sexual Battery

Defined in Section 16-3-651 (h) as sexual intercourse, cunnilingus, fellatio, anal intercourse, or any intrusion, however slight, of any part of a person's body or of any object into the genital or anal openings of another person's body, except when such intrusion is accomplished for medically recognized treatment or diagnostic purposes.

Psychological Abuse Deliberately subjecting a vulnerable adult to threats or harassment or other forms of intimidating behavior causing fear, humiliation, degradation, agitation, confusion, or other.

Neglect

Defined in Section 43-15-10 (6).

Neglect by Caregiver

The failure or omission of a caregiver to provide the care, goods, or services necessary to maintain the health or safety of a vulnerable adult including, but not limited to, food, clothing, medicine,

shelter, supervision, and medical services. This may be repeated conduct or a single incident which has produced or can be proven to result in serious physical or psychological harm or substantial risk of death.

Self-Neglect

Includes the inability of the vulnerable adult, in the absence of a caretaker, to provide for his or her own health or safety which produces or could reasonably be expected to produce serious physical or psychological harm, or substantial risk of death.

Exploitation

Defined in Section 43-35-10(3) of the statute.

Exploitation of a Person

Causing or requiring a vulnerable adult to engage in activity or labor which is improper, unlawful, or against the reasonable and rational wishes of the vulnerable adult. Required participation in an activity or labor which is part of a written plan of care or which is prescribed or authorized by the licensed attending physician is not included.

Exploitation of Property

Improper, unlawful, or unauthorized use of funds, assets, property, power of attorney, guardianship, or conservatorship of a vulnerable adult by a person for the profit or advantage of that person or another person.

Exploitation by Swindling

Causing a vulnerable adult to purchase goods or services for the profit or advantage of the seller or another person through: (a) undue influence, (b) harassment, (c) duress, (d) force, (e) coercion, or (f) swindling by overreaching (outwitting), cheating, or defrauding the vulnerable adult through cunning arts or devices that delude the vulnerable adult and cause him to lose money or other property.

South Dakota

Physical Abuse

Physical harm, bodily injury, attempt to cause physical harm or injury, or fear of imminent physical harm or bodily injury.

Emotional and Psychological Abuse

A caretaker's willful, malicious, and repeated infliction of:

- a sexual act or the simulation of a sexual act directed at and without the consent of the elder or adult with a disability that involves nudity or is obscene;
- unreasonable confinement;
- harm or damage or destruction of the property of an elder or adult with a disability, including harm to or destruction of pets; or
- ridiculing or demeaning conduct, derogatory remarks, verbal harassment, or threats to inflict physical or emotional and psychological abuse, directed at an elder or adult with a disability.

Exploitation

The wrongful taking or exercising of control over property of an elder or adult with a disability with intent to defraud the elder or adult with a disability.

Neglect

Harm to the health or welfare of an elder or an adult with a disability, without reasonable medical justification, caused by a caretaker, within the means available for the elder or adult with a disability, including the failure to provide adequate food, clothing, shelter, or medical care.

Self-Abuse

Conduct which threatens or endangers a person's own welfare, health or safety.

Self-Neglect

An act or failure that substantially endangers a person's health, safety, welfare or life by not seeking or obtaining services necessary to meet the person's essential human needs. Choices of lifestyle or living arrangement are not by themselves evidence of self-neglect.

Tennessee

Abuse

Abuse is the commission of an act to cause physical pain, physical injury, mental anguish, emotional trauma or inappropriate / unreasonable confinement, by a caretaker, of an adult who is unable to protect his / herself.

Abuse may include, but is not limited to the following:

- injuries which are debilitating or, if not treated, would become debilitating;
- conditions which would cause permanent disabilities; or conditions which would be considered terminal if not treated; or
- injuries that are inconsistent with the history given; or
- injuries for which there is no reasonable explanation.

Sexual Abuse

Sexual abuse occurs when an impaired adult is forced, tricked, threatened or otherwise coerced into sexual activity, involuntary exposure to sexually explicit material or language or sexual contact against the adult's will. Sexual abuse also occurs when an adult is unable to give consent to such sexual activities or contact and is engaged in such activities or contact with another person. Sexual abuse provides grounds for the Department to obtain custody of an adult who lacks capacity to consent when such abuse relates to sexual activity or contact. This includes, but is not limited to:

- Sexual contact that may include physical and emotional abuse and verbal harassment of a sexual nature.
- Sexual abuse that occurs regardless of whether or not the perpetrator is the spouse of the victim.
- Sexual contact between an authority figure and an adult who lacks capacity.

Neglect

Neglect is the omission by a caretaker of services / care needed by an adult to prevent physical or mental injury/illness.

Self-Neglect

Self-Neglect is the result of an adult's own inability, due to physical and/or mental impairments or diminished capacity, to perform essential self-care tasks including: obtaining essential food, clothing, shelter, and medical care; obtaining goods and services necessary to maintain physical health, mental health, emotional well-being and general safety; and/or managing financial affairs."

Lack of Supervision

- Requires total care (care that involves assistance with all ADLs and may require 24-hour supervision) and has been left without a caretaker, or wandering behavior that places the person at risk of harm, or
- mental or physical disabling condition that interferes with person's ability to meet minimal needs and assistance is not available or is being withheld, placing the alleged victim at risk.

Exploitation

Tennessee law specifically defines exploitation as the improper use by a caretaker (defined above) of funds which have been paid by a governmental agency to an adult or to the caretaker for the use or care of the adult.

Texas (In-Home)

Exploitation

When the alleged perpetrator is a direct provider providing services to an individual in the home and community, except for individuals receiving services from HCS waiver program or TxHmL waiver program providers, exploitation is defined as:

- the illegal or improper act or process of using or attempting to use an individual receiving services or the resources of an individual receiving services for monetary or personal benefit, profit, or gain; and
- theft as defined in Chapter 31 of the Texas Penal Code.

For all other service providers, when the alleged perpetrator is a direct provider, exploitation is defined as the illegal or improper act or process of using an individual receiving services or the resources of an individual receiving services for monetary or personal benefit, profit, or gain.

Neglect

When the alleged perpetrator is a direct provider, neglect is defined as a negligent act or omission which caused or may have caused physical or emotional injury or death to an individual receiving services or which placed an individual receiving services at risk of physical or emotional injury or death.

Examples of neglect may include, but are not limited to, the failure to:

- establish or carry out an appropriate individual program plan or treatment plan for a specific individual receiving services, if such failure results in physical or emotional injury or death to an individual receiving services or which placed an individual receiving services at risk of physical or emotional injury or death;
- provide adequate nutrition, clothing, or health care to a specific individual receiving services in a residential or inpatient program if such failure results in physical or emotional injury or death to an individual receiving services or which placed an individual receiving services at risk of physical or emotional injury or death; or
- provide a safe environment for a specific individual receiving services, including the failure to maintain adequate numbers of appropriately trained staff, if such failure results in physical or emotional injury or death to an individual receiving services or which placed an individual receiving services at risk of physical or emotional injury or death.

Physical Abuse

When the alleged perpetrator is a direct provider, physical abuse is defined as:

- an act, or failure to act, performed knowingly, recklessly, or intentionally, including incitement to act, which caused or may have caused physical injury or death to an individual receiving services;
- an act of inappropriate or excessive force or corporal punishment, regardless of whether the act results in a physical injury to an individual receiving services; or
- the use of chemical or bodily restraints on an individual receiving services not in compliance with federal and state laws and regulations, including:
 - 25 TAC Chapter 415, Subchapter F (relating to interventions in mental health programs);
 - 40 TAC Chapter 3, Subchapter F (relating to restraints);
 - 40 TAC Chapter 9, Subchapter D (relating to HCS);
 - 40 TAC Chapter 9, Subchapter N (relating to TxHmL);
 - 40 TAC Chapter 97, Subchapter H (relating to standards specific to agencies licensed to provide hospice services);
 - 40 TAC Chapter 42, Subchapter D (relating to the Deaf Blind with Multiple Disabilities program); and
 - 1 TAC Chapter 353, Subchapter C (relating to Member Bill of Rights).

Sexual Abuse

When the alleged perpetrator is a direct provider, sexual abuse is defined as any sexual activity, including:

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

- requesting, soliciting, or compelling an individual receiving services 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.

In the presence of an individual receiving services:

- 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;
- committing sexual exploitation as defined in 40 TAC §711.13, against an individual receiving services;
- committing sexual assault as defined in the Texas Penal Code §22.011, against an individual receiving services;
- committing aggravated sexual assault as defined in the Texas Penal Code, §22.021, against an individual receiving services; and
- causing, permitting, encouraging, engaging in, or allowing the photographing, filming, videotaping, or depicting of an individual receiving services if the direct provider knew or should have known that the resulting photograph, film, videotape, or depiction of the individual receiving services is obscene as defined in the Texas Penal Code, §43.21, or is pornographic.

Consensual sexual activity between a direct provider and an adult receiving services is not considered sexual abuse if the consensual sexual relationship began prior to the direct provider becoming a paid direct provider.

Verbal Or Emotional Abuse

When the alleged perpetrator is a direct provider, verbal or emotional abuse is any act or use of verbal or other communication, including gestures, to curse, vilify, or degrade an individual receiving services or threaten him or her with physical or emotional harm. The act or communication must result in observable distress or harm to the individual receiving services or

be of such a serious nature that a reasonable person would consider it harmful or causing distress.

Non-Serious Physical Injury

- In state supported living centers and state hospitals — Any injury requiring minor first aid and determined not to be serious by a registered nurse, advanced practice nurse, or physician.
- For all other service providers — Any injury determined not to be serious by the appropriate medical personnel. Examples of a non-serious physical injury may include:
 - a superficial laceration,
 - a contusion two and one-half inches in diameter or smaller, or
 - an abrasion.

Restraint

The use of physical contact, a mechanical device, or a chemical to involuntarily restrict the free movement or normal functioning of the whole or part of the body of an individual receiving services. A restraint is used to control physical activity or behavior.

Seclusion

Placing an individual receiving services alone for any period of time in a hazard-free room or other area where he or she can be watched at all times and cannot leave.

Serious Physical Injury

- In state supported living centers and state hospitals — Any injury requiring medical intervention or hospitalization or determined to be serious by a physician or advanced practice nurse. Medical intervention is treatment by a licensed medical doctor, osteopath, podiatrist, dentist, physician’s assistant, or advanced practice nurse. Medical intervention does not include first aid, an examination, diagnostics (such as an x-ray or blood test), or the prescribing of oral or topical medication.

- For all other service providers — An injury determined to be serious by the appropriate medical personnel who examined the person. Examples of serious physical injuries include:
 - a fracture,
 - a dislocation of any joint,
 - an internal injury,
 - a contusion larger than two and one-half inches in diameter,
 - a concussion,
 - a second or third-degree burn, or
 - any laceration requiring sutures.

Utah

Abuse

- Knowingly or intentionally: attempting to cause harm; causing harm; or placing another in fear of harm;
- unreasonable or inappropriate use of physical restraint, medication, or isolation that causes or is likely to cause harm to a vulnerable adult;
- emotional or psychological abuse;
- a sexual offense as described in Title 76, Chapter 5, Offenses Against the Person; or
- deprivation of life sustaining treatment, or medical or mental health treatment, except: as provided in Title 75, Chapter 2a, Advance Health Care Directive Act; or when informed consent, as defined in Section 76-5-111, has been obtained.
- "Emotional or psychological abuse" means knowing or intentional verbal or nonverbal conduct.
- Directed at a vulnerable adult that results in the vulnerable adult suffering mental anguish, emotional distress, fear, humiliation, degradation, agitation, or confusion.

Emotional or Psychological Abuse

- Includes intimidating, threatening, isolating, coercing, or harassing.
- Does not include verbal or non-verbal conduct by a vulnerable adult who lacks the capacity to intentionally or knowingly: engage in the conduct; or cause mental anguish, emotional distress, fear, humiliation, degradation, agitation, or confusion.

Neglect

- Failure of a caretaker to provide necessary care, including nutrition, clothing, shelter, supervision, personal care, or dental, medical, or other health care for a vulnerable adult, unless the vulnerable adult is able to provide or obtain the necessary care without assistance; or
- failure of a caretaker to provide protection from health and safety hazards or maltreatment;
- failure of a caretaker to provide care to a vulnerable adult in a timely manner and with the degree of care that a reasonable person in a like position would exercise;
- a pattern of conduct by a caretaker, without the vulnerable adult's informed consent, resulting in deprivation of food, water, medication, health care, shelter, cooling, heating, or other services necessary to maintain the vulnerable adult's well-being;
- knowing or intentional failure by a caretaker to carry out a prescribed treatment plan that causes or is likely to cause harm to the vulnerable adult;
- self-neglect by the vulnerable adult; or
- abandonment by a caretaker.

Self-Neglect

The failure of a vulnerable adult to provide or obtain food, water, medication, health care, shelter, cooling, heating, safety, or other services necessary to maintain the vulnerable adult's well-being when that failure is the result of the adult's mental or physical impairment. Choice of lifestyle or living arrangements may not, by themselves, be evidence of self-neglect.

Vermont

Abuse

- Any treatment of a vulnerable adult which places his or her life, health, or welfare in jeopardy or which is likely to result in impairment of health; any conduct committed with intent or reckless disregard that such conduct is likely to cause unnecessary pain, harm, or suffering;
- unnecessary or unlawful confinement or restraint of a vulnerable adult;

- intentionally subjecting a vulnerable adult to behavior which should reasonably be expected to result in intimidation, fear, humiliation, degradation, agitation, disorientation, or other forms of serious emotional distress;
- any sexual activity with a vulnerable adult by a caregiver who volunteers for or is paid by a care-giving facility or program. This definition shall not apply to a consensual relationship between a vulnerable adult and a spouse, nor to a consensual relationship between a vulnerable adult and a caregiver hired, supervised, and directed by the vulnerable adult; and/or
- administration or threatened administration of a drug, substance, or preparation to a vulnerable adult for a purpose other than legitimate and lawful medical or therapeutic treatment.

Neglect by A Caregiver

Neglect by a caregiver to:

- provide care or arrange for goods or services necessary to maintain the health or safety of a vulnerable adult, including, but not limited to, food, clothing, medicine, shelter, supervision, and medical services, unless the caregiver is acting pursuant to the wishes of the vulnerable adult or his or her representative, or a terminal care document;
- protect a vulnerable adult from abuse, neglect, or exploitation by others;
- carry out a plan of care for a vulnerable adult when such failure results in or could reasonably be expected to result in physical or psychological harm or a substantial risk of death to the vulnerable adult, unless the caregiver is acting pursuant to the wishes of the vulnerable adult or his or her representative, or a terminal care document;
- report significant changes in the health status of a vulnerable adult to a physician, nurse, or immediate supervisor, when the caregiver is employed by an organization that offers, provides or arranges for personal care; and/or
- repeated conduct or a single incident which has resulted in or could be expected to result in physical or psychological harm.

Exploitation

- Willfully using, withholding, transferring or disposing of funds or property of a vulnerable adult without or in excess of legal authority for the wrongful profit or advantage of another;
- acquiring possession or control of or an interest in funds or property of a vulnerable adult through the use of undue influence, harassment, duress, or fraud;
- forcing or compelling a vulnerable adult against his or her will to perform services for the profit or advantage of another; and/or
- engaging in sexual activity with a vulnerable adult when the vulnerable adult does not consent or when an individual knows or should know that the vulnerable adult is incapable of resisting or declining consent to the sexual activity due to age or disability or due to fear of retribution or hardship, whether or not an individual has actual knowledge of vulnerable status.

Virginia

Abuse

Knowing and willful conduct that causes physical injury or pain or (ii) knowing and willful use of physical restraint, including confinement, as punishment, for convenience or as a substitute for treatment, except where such conduct or physical restraint, including confinement, is a part of care or treatment and is in furtherance of the health and safety of the incapacitated person.

Sexual Abuse

An act committed with the intent to sexually molest, arouse, or gratify any person, where:

- the accused intentionally touches the complaining witness's intimate parts or material directly covering such intimate parts;
- the accused forces the complaining witness to touch the accused's, the witness's own, or another person's intimate parts or material directly covering such intimate parts; or
- the accused forces another person to touch the complaining witness's intimate parts or material directly covering such intimate parts (§ 18.2-67.10 of the Code of Virginia).

Mental Anguish

A state of emotional pain or distress resulting from activity (verbal or behavioral) of a perpetrator. The intent of the activity is to threaten or intimidate, to cause sorrow or fear, to humiliate, change behavior or ridicule. There must be evidence that it is the perpetrator's activity that has caused the adult's feelings of pain or distress.

Neglect

Neglect includes the failure of a caregiver or another responsible person to provide for basic needs to maintain the adult's physical and mental health and well-being, and it includes the adult's neglect of self. Neglect includes, but is not limited to:

- The lack of clothing considered necessary to protect a person's health. It is generally expected that an adult needs clothing to provide protection from excessive cold. Inadequate clothing would be clothing that is insufficient or inappropriate for the weather.
- The lack of food necessary to prevent physical injury or to maintain life, including failure to receive appropriate food for adults with conditions requiring special diets.
- Shelter that is not structurally safe; has rodents or other infestations which may result in serious health problems; or does not have a safe and accessible water supply, safe heat source or sewage disposal. Adequate shelter for an adult will depend on the impairments of an adult; however, the adult must be protected from the elements that would seriously endanger his health (e.g., rain, cold or heat) and could result in serious illness or debilitating conditions.
- Inadequate supervision by a caregiver (paid or unpaid) who has been designated to provide the supervision necessary to protect the safety and well-being of an adult in his care.
- The failure of persons who are responsible for caregiving to seek needed medical care or to follow medically prescribed treatment for an adult, or the adult has failed to obtain such care for himself. The needed medical care is believed to be of such a nature as to result in physical and/or mental injury or illness if it is not provided.
- Medical neglect includes, but is not limited to, the withholding of medication or aids needed by the adult such as dentures, eye glasses, hearing aids, walker, etc. It also includes the unauthorized administration of prescription drugs, over- or under-

medicating, and the administration of drugs for other than bona fide medical reasons, as determined by a licensed health care professional.

- Self-neglect by an adult who is not meeting his own basic needs due to mental and/or physical impairments. Basic needs refer to such things as food, clothing, shelter, health or medical care (22 VAC 30-100-10).

Exploitation

The illegal use of an incapacitated adult or his resources for another's profit or advantage (§ 63.2-100 of the Code of Virginia). This includes acquiring an adult's resources through the use of the adult's mental or physical incapacity; the disposition of the incapacitated adult's property by a second party to the advantage of the second party and to the detriment of the incapacitated adult; misuse of funds; acquiring an advantage through threats to withhold needed support or care unless certain conditions are met; persuading an incapacitated adult to perform services including sexual acts to which the adult lacks the capacity to consent (22 VAC 30-100-10).

Washington

Abandonment

Action or inaction by a person or entity with a duty of care for a vulnerable adult that leaves the vulnerable person without the means or ability to obtain necessary food, clothing, shelter, or health care.

Abuse

The willful action or inaction that inflicts injury, unreasonable confinement, intimidation, or punishment on a vulnerable adult. In instances of abuse of a vulnerable adult who is unable to express or demonstrate physical harm, pain, or mental anguish, the abuse is presumed to cause physical harm, pain, or mental anguish. Abuse includes sexual abuse, mental abuse, physical abuse, and exploitation of a vulnerable adult which have the following meanings:

Sexual Abuse

Any form of nonconsensual sexual conduct including, but not limited to, unwanted or inappropriate touching, rape, sodomy, sexual coercion, sexually explicit photographing, and

sexual harassment. Sexual abuse includes any sexual conduct between a staff person, who is not also a resident or client of a facility or authorized program, and a vulnerable adult living in that facility or receiving service from the program, whether or not it is consensual.

Physical Abuse

The willful action of inflicting bodily injury or physical mistreatment. Physical abuse includes, but is not limited to: striking with or without an object, slapping, pinching, choking, kicking, shoving, or prodding.

Mental Abuse

A willful verbal or nonverbal action that threatens, humiliates, harasses, coerces, intimidates, isolates, unreasonably confines, or punishes a vulnerable adult. Mental abuse may include ridiculing, yelling, or swearing.

Personal Exploitation

An act of forcing, compelling, or exerting undue influence over a vulnerable adult causing the vulnerable adult to act in a way that is inconsistent with relevant past behavior, or causing the vulnerable adult to perform services for the benefit of another.

Improper Use of Restraint

The inappropriate use of chemical, physical, or mechanical restraints for convenience or discipline or in a manner that: (a) Is inconsistent with federal or state licensing or certification requirements for facilities, hospitals, or programs; (b) is not medically authorized; or (c) otherwise constitutes abuse

Chemical Restraint

The administration of any drug to manage a vulnerable adult's behavior in a way that reduces the safety risk to the vulnerable adult or others, has the temporary effect of restricting the vulnerable adult's freedom of movement, and is not standard treatment for the vulnerable adult's medical or psychiatric condition.

Financial Exploitation

The illegal or improper use, control over, or withholding of the property, income, resources, or trust funds of the vulnerable adult by any person or entity for any person's or entity's profit or advantage other than for the vulnerable adult's profit or advantage.

Mechanical restraint

Any device attached or adjacent to the vulnerable adult's body that he or she cannot easily remove that restricts freedom of movement or normal access to his or her body. "Mechanical restraint" does not include the use of devices, materials, or equipment that are (a) medically authorized, as required, and (b) used in a manner that is consistent with federal or state licensing or certification requirements for facilities, hospitals, or authorized programs.

Neglect

A pattern of conduct or inaction by a person or entity with a duty of care that fails to provide the goods and services that maintain physical or mental health of a vulnerable adult, or that fails to avoid or prevent physical or mental harm or pain to a vulnerable adult; or an act or omission by a person or entity with a duty of care that demonstrates a serious disregard of consequences of such a magnitude as to constitute a clear and present danger to the vulnerable adult's health, welfare, or safety.

Physical Restraint

The application of physical force without the use of any device, for the purpose of restraining the free movement of a vulnerable adult's body. "Physical restraint" does not include (a) briefly holding without undue force a vulnerable adult in order to calm or comfort him or her, or (b) holding a vulnerable adult's hand to safely escort a resident from one area to another.

Self-Neglect

The failure of a vulnerable adult, not living in a facility, to provide for himself or herself the goods and services necessary for the vulnerable adult's physical or mental health, and the absence of

which impairs or threatens the vulnerable adult's well-being. This definition may include a vulnerable adult who is receiving services through home health, hospice, or a home care agency, or an individual provider when the neglect is not a result of inaction by that agency or individual provider.

West Virginia

Abuse

The infliction or threat to inflict physical pain or injury on or the imprisonment of any incapacitated adult or facility resident. (Similar definition is contained in §61-2-29 that addresses penalties for abuse or neglect of incapacitated adult or elder person).

Neglect

Means A) The unreasonable failure by a caregiver to provide the care necessary to assure the physical safety or health of an incapacitated adult (Similar definition is contained in §61-2-29 abuse or neglect of incapacitated adult or elder person regarding criminal penalties).

Financial Exploitation

The unlawful expenditure or unlawful willful dissipation of the funds or other assets owned or paid to or for the benefit of an incapacitated adult or facility resident.

Self-Neglect

The inability of an incapacitated adult to meet his/her own basic needs of daily living due to mental or physical incapacity.

Sexual Abuse

The coercion of an incapacitated adult or facility resident into having sexual contact with the perpetrator or another person with the incapacitated adult. A caregiver of the incapacitated person or facility resident must be involved either directly (i.e. as the perpetrator or sexual partner) or indirectly (by allowing or enabling the conditions which result in the sexual coercion).

Wisconsin

Abuse

The following behavior by an individual or agency towards a person is defined as abuse for purposes of the elder adults/adults-at-risk reporting and response systems:

- **Physical abuse** includes an action, or a failure to act, that causes bodily harm to an individual. The action or failure to act must be intentional or reckless, that is, the person must know that he or she is doing the action and that harm is a likely consequence, or must do it without paying attention to the harm that it might cause, even though the likelihood of harm should be obvious. Bodily harm includes physical pain or injury, illness, and any impairment of physical condition.
- **Emotional abuse** includes subjecting the individual to language or behavior that serves no legitimate purpose and that is intended to be intimidating, humiliating, threatening, frightening or otherwise harassing. Specific exceptions: In line with the general requirement of an intent to harass, language or behavior is not considered emotional abuse if it:
 - Serves a legitimate purpose. This is intended to protect people from charges of abuse where the conduct is necessary to keep the individual safe, or is part of a legitimate treatment program.
 - Could not reasonably have been expected to intimidate, humiliate, threaten, frighten or otherwise harass the individual, and does not in fact intimidate, humiliate, threaten, frighten or otherwise harass the individual. This recognizes that whether behavior is emotionally abusive can depend on the circumstances, the relationship between the individuals involved, and the level of vulnerability of the person alleged to have been abused. Behavior that does not result in emotional harm can still be considered abusive, if it was intended to do so and could reasonably have been expected to do so.
- **Sexual abuse** means subjecting an individual to sexual contact of a type that would be considered a sexual assault under the criminal law. It is a crime in Wisconsin to have sexual intercourse or sexual contact with another person without consent. (Sexual contact is intentional touching, and certain other conduct, done for the purpose of sexually degrading the victim or sexually gratifying the perpetrator.) In addition, two provisions have special relevance for individuals at risk:

- Any sexual contact with a person who has a mental illness or deficiency that makes him or her incapable of appraising his or her conduct is a sexual assault, even if he or she appears to consent.
- It is sexual assault for any licensee or employee of certain human services programs and facilities to have sexual contact with an individual who is a patient or resident of the program or facility, regardless of whether the individual consents.
- **Treatment without consent** occurs when a person administers medication to an individual, or performs psychosurgery, electroconvulsive therapy, or experimental research on an individual, and does so both (1) without the informed consent of the individual, and (2) with the knowledge that no lawful authority exists for the medication or treatment. Under some circumstances, medication and the listed forms of treatment or research may be administered without informed consent of the individual, but with informed consent of a guardian. Medication and treatment may also be administered without informed consent under a commitment order under Ch. 51, or under an order for involuntary administration of psychotropic medication.
- **Unreasonable confinement or restraint** occurs when a person intentionally and unreasonably does any of the following to an individual: (1) confines the individual in a locked room; (2) prevents the individual from having access to his or her living area; (3) uses a physical restraining device on the individual; or (4) provides unnecessary or excessive medication to the individual. Exception: Conduct is not considered to be unreasonable confinement or restraint if (1) it occurs in an entity regulated by DHFS and (2) the methods or devices are employed in conformance with state and federal standards governing confinement and restraint.

Neglect

A failure by a caregiver to try to maintain adequate care, services or supervision, including food, clothing, shelter or physical or mental health care. The failure can be the result of an action, a failure to act, or a course of conduct over time.

Self-Neglect

A failure by the individual himself or herself to obtain adequate care, including food, shelter, clothing, medical or dental care. As with neglect, the failure must result in a significant danger to the individual's physical or mental health. Self-neglect can only occur with regard to care or other

needs for which the individual retains responsibility. A failure does not need to be intentional to be self-neglect.

Financial Exploitation

Replaces the terms material abuse in the elder abuse reporting system, and the terms exploitation and misappropriation of property in Ch. 55. However, it has a far broader and more complex definition than any of those terms. The definition is broken down into seven categories. Some of these then refer to conduct prohibited under criminal laws, which themselves contain their own lists and definitions of prohibited behavior. This section provides a summary of the kinds of activity covered but cannot provide a complete description of the criminal laws involved. The titles and words used here are intended to give a general idea of what is covered by the statutes. People applying the law will need to look at the statutes and may need to consult with experts on criminal law, to see if particular conduct fits the definitions.

- **Fraud, enticement or coercion:** It is financial exploitation to (1) obtain an individual's money or property by deceiving or enticing an individual, or (2) to force or coerce an individual to give something away against his or her will and without his or her informed consent. The word “enticing” is not defined, but might include the use of promises of friendship, or representations that the individual will come into a lot of money if he or she makes a requested transfer. This section does not require that any criminal law be broken.
- **Theft:** *Theft* has the same meaning as it does for purposes of the criminal law against theft. To be theft, a taking of property must be intentional. *Theft* includes the usual meaning of taking a person’s property without permission and with intent to keep it, but (among other things) also includes:
 - **Embezzlement:** This includes a person taking property for his or her own use that has been entrusted to the person, for example, as an employee or as a trustee.
 - **Theft by fraud:** This includes a person obtaining property by making a false representation, including a promise made with the intent not to perform it.
- **Misconduct by a fiscal agent:** Financial exploitation includes “substantial failure or neglect of a fiscal agent to fulfill his or her responsibilities.” The term *fiscal agent* includes a guardian of the estate or conservator, an agent under a financial power of attorney, a representative payee appointed for purposes of Supplemental Security Income benefits (but not, as it reads, Social Security retirement, survivors and disability benefits), and a conservatorship under the U.S. Department of Veterans Affairs.

- **Identity theft:** It is financial exploitation for a person to intentionally use an individual's identifying documents or identifying information, without the individual's consent, to either get something of value or to harm the individual's reputation or property, by pretending to be the individual, or by pretending to be acting with the individual's authorization.
 - **Unauthorized use of the identity of a company or agency:** It is financial exploitation for a person to intentionally use the identifying information or documents, of an entity (such as a bank, business, or government agency) to get something of value from an individual by pretending that he or she is acting with authorization of the entity.
 - **Forgery:** It is financial exploitation to alter legal or official documents, such as a will or title, with the intent to defraud someone, or to show an altered document to someone and pretend it is genuine, knowing that the document is forged. Forgery also includes, for example, altering an object and falsely pretending it is an antique, or that it was created by a particular artist.
- **Unauthorized use of financial transaction cards:** It is financial exploitation to take an individual's financial transaction card without permission, to then use it, and/ or to give it or sell it to someone else. Financial transaction cards include credit, debit, ATM and similar cards.

Wyoming

Abuse of A Vulnerable Adult

The intentional or reckless infliction, by the vulnerable adult's caregiver, person of trust or authority, professional, family member or other individual of injury; unreasonable confinement which threatens the welfare and well-being of a vulnerable adult; cruel punishment with resulting physical or emotional harm or pain to a vulnerable adult; photographing vulnerable adults in violation of W.S. 6-4-304(b); sexual abuse; intimidation; or exploitation.

Neglect of A Vulnerable Adult

The deprivation of, or failure to provide, the minimum food, shelter, clothing, supervision, physical and mental health care, other care and prescribed medication as necessary to maintain a vulnerable adult's life or health, or which may result in a life-threatening situation.

Abandonment

Leaving a vulnerable adult without financial support or the means or ability to obtain food, clothing, shelter or health care;

Exploitation

The reckless or intentional act taken by any person, or any use of the power of attorney, conservatorship or guardianship of a vulnerable adult, to:

- Obtain control through deception, harassment, intimidation or undue influence over the vulnerable adult's money, assets or property with the intention of permanently or temporarily depriving the vulnerable adult of the ownership, use, benefit or possession of his money, assets or property;
- In the absence of legal authority:
 - Employ the services of a third party for the profit or advantage of the person or another person to the detriment of a vulnerable adult;
 - Force, compel, coerce or entice a vulnerable adult to perform services for the profit or advantage of another against the will of the vulnerable adult.
- Intentionally misuse the principal's property and, in so doing, adversely affect the principal's ability to receive health care or pay bills for basic needs or obligations; or
- Abuse the fiduciary duty under a power of attorney, conservatorship or guardianship.

Self-Neglect

When a vulnerable adult is unable, due to physical or mental disability, or refuses to perform essential self-care tasks, including providing essential food, clothing, shelter or medical care, obtaining goods and services necessary to maintain physical health, mental health, emotional well-being and general safety, or managing financial affairs.