

**Annual Report on
Adult Protective Services for State Fiscal Year 2019**

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Voluntary Reporting to Promote Good Governance

Act 46 of 2013 required the Secretary of the Agency of Human Services to submit an annual report to the Legislature through January 2018. Although the requirements of Act 46 have ended, the Department has continued to provide the information previously required because we believe that doing so is healthy for the program and ensures transparency and accountability. The improvements in Vermont's APS programs over the past six years have been well-documented; that progress has been a result of building and maintaining collaborative partnerships and continuous efforts to improve both policy and practice

The Department of Disabilities, Aging and Independent Living (DAIL), Agency of Human Services (AHS), is pleased to present this State Fiscal Year 2019 (SFY'19) report on Adult Protective Services (APS).

Adult Protective Services' Mission and Organizational Structure

APS is the primary unit of state government responsible for investigating allegations of abuse, neglect and exploitation of vulnerable adults under Title 33 of Vermont statutes. APS is a program within the Division of Licensing and Protection (DLP), with the APS Director reporting to the DLP Director. DLP also houses Survey and Certification (S&C). S&C monitors licensed health care facilities for compliance with state and federal regulations, and they conduct their own investigations in response to complaints and self-reports from the facilities.

During SFY'19, APS was staffed with 16.5 FTE positions, as follows:

- 1 APS Director (central office)
- 2 APS Field Supervisors (home based)
- 9 APS Investigators (home based)
- 1 APS Assistant Director (manages report intakes and screening)(central office)
- 2 Program Specialists (processes report intakes)(central office)
- 1 APS Senior Planning Coordinator (system administration and administration (central office)
- .5 Temporary Administrative Assistant (registry requests)(central office)

Services Delivered

Community Outreach and Education

Throughout SFY'19, APS continued to provide monthly, mandatory reporter training related to abuse, neglect or exploitation of vulnerable adults at the Waterbury State Office Complex for both state employees and community partners. Additionally, we published a Vermont Vulnerable Adult Mandatory Reporter Training video on YouTube.

Intake and Screening

All APS investigative activities begin with a report filed with intake staff. Within 48 hours of receiving a complete report, APS staff determine if the alleged victim is a vulnerable adult and if the allegations meet the statutory definitions for abuse, neglect, or exploitation. If both criteria are met, an investigation is assigned. If the report is not complete and criteria are not clear, APS intake staff have four business days to gather additional information from the reporter or others who may have knowledge of the situation. If intake staff still don't have enough information to determine if the alleged victim is a vulnerable adult, an APS Investigator may be sent to perform a field screen in order to make a determination about vulnerability. Field screens are to be completed within 6 business days, or they automatically convert to an investigation, which means that all reports should have a screening decision within 10 business days to be fully compliant with the APS Policy Manual.

APS intake staff also:

- Assess the alleged victim’s situation to determine if referrals should be made to service providers or law enforcement.
- Notify the person who made the report of the screening decision via mail, to include their appeal rights if the screening decision is to not investigate.
- Notify the alleged victim via mail that a report was made if the screening decision is to not investigate.

In SFY’17, APS restructured its intake unit, converting a vacant APS Investigator position into an APS Assistant Director position that manages Intake and coordinates partner services. This change ensured the intake and screening function had the same level of supervisory support as our investigative work and created a higher level of consistency in the process. This also addressed the issue identified in the SFY’17 APS Annual Report regarding insufficient intake capacity. One key change to the restructuring is that Program Specialists are no longer required to both gather report information and make a final screening decision. Since December of 2016, all final screening decisions have been made by an APS staff member in a supervisory or managerial level position, which ensured all reports were reviewed by at least two employees and at least one supervisor. This resulted in more consistent screening decisions and improved the quality of the information provided to investigators when reports are screened in for investigation.

Intake and Screening Data

In SFY’19, APS received 4,080 reports. In comparison, APS received 3,785 reports in SFY’18, representing a **7.8% increase in the total number of reports received from SFY’18 to SFY’19**. Of those 4,080 reports, 955, or 23%, were screened-in for investigation.

In SFY’19, the median number of days for a screening decision was 1 business day, with 87% of reports receiving a screening decision and assignment made within 4 business days.

Below is a table showing the percentage of reports completed by the number of business days since report receipt. Investigations involving a field screen were removed.

Number of Business Days Until Screening Decision	% Screened for July 2018 to June 2019
Same Day Report Received	29%
1 Business Day	37%
2 Business Days	14%
3 Business Days	7%
4 Business Days	4%
5 Business Days	3%

6 Business Days	2%
7 Business Days	1%
8 Business Days	1%
9 Business Days	1%
10 or More Business Days	2%

Of the SFY'19 4080 reports received, 83 required a field screen to determine if the alleged victim was a vulnerable adult, which was 2% of the total reports received. Of the 83 total field screens, 83% were completed within 10 business days of receiving the report, and 33 were screened in for investigation, which was 40% of the total number of field screens.

Of the total SFY'19 4,080 reports received, in 712 of the reports the alleged victim was a resident of a facility licensed by DLP, which was 17% of the total reports. These facilities include, but are not limited to: assisted living residences, nursing homes, psychiatric hospitals, residential care homes, and therapeutic community residences. Of the 712 reports, 89 were screened in, which was 12.5% of the total. This lower screen in rate is consistent with feedback received from mandatory reporters working at facilities who indicate they over report to ensure compliance with reporting requirements.

Below is a table showing the reporting options, number or reports received by option, and the screening rate for each option.

Reporting Method Used	Total Reports Received	% of Total Reports Received	% of Reports Screened In by Method
Web Intake	2576	63%	22%
Telephone	882	22%	30%
Fax	218	5%	19%
Email	338	8%	18%
Other	66	2%	26%

Investigations and Investigation Data

When a report is screened in for investigation, the APS Investigator will interview the reporter, the alleged victim, and any other relevant witnesses, along with reviewing any available documentation. They will also provide the alleged perpetrator with an opportunity to present information. At the conclusion of the investigation, they make a recommendation for substantiation to the DAIL Commissioner (if the evidence indicates there was abuse, neglect, or exploitation). The results of a substantiation are described below under the Reviews and Appeals and the Adult Abuse Registry sections.

There are nine APS Investigators broken into two teams, with two APS Field Supervisors. The APS Field Supervisors carry half an investigation load, and the two teams are broken out into northern and southern regions.

In SFY'19, APS opened 798 investigation. In SFY'18, APS opened 852 investigations. The number of investigations opened in SFY'19 (798) is lower than the 955 reports *screened in* because some investigations are the result of multiple reports of the same incident that resulted in a single investigation.

In SFY'19, APS completed 875 investigations (some began prior to SFY'19); this represents an 11% increase of investigations compared to the completed 788 investigations in SFY'18. In comparison, in SFY'17, APS completed 664 investigations, representing a 19% increase between SFY'17 and SFY'18.

Of the 875 investigations completed, 131 resulted with a recommendation of substantiation, for a substantiation rate of 15%. In comparison, in SYF'18, 121 investigations resulted in a recommendation of substantiation, with a substantiation rate of 20%, and in SFY'17, 132 investigations concluded with a recommendation of substantiation, with a substantiation rate of 20%.

Of the 875 investigations completed, in 124 investigations the alleged victim was a resident of a licensed facility, which represented 14% of total investigations.

There are three types of allegations that APS investigates: abuse, neglect by a caregiver, and exploitation. Exploitation can consist of both financial exploitation and sexual exploitation.

About 1 in 5 investigations have reported or identified multiple allegation types, though data from the National Adult Protective Services Association (NAPSA) show that in the majority of cases vulnerable adults that are victim to one form of maltreatment are victim to additional forms. This is referred to as *polyvictimization*.

The tables below show the number of investigations that had an allegation of each allegation type for both unsubstantiated investigations and substantiated investigations in SFY'19, keeping in mind that 20% of investigations had multiple allegation types.

Unsubstantiated Investigations – Maltreatment Demographics

Allegation Type	Number of Investigations	% Investigations with this Allegation Type
Abuse	306	35%
Exploitation	455	52%
Neglect	289	33%

Substantiated Investigations (recommended) – Maltreatment Demographics

Allegation Type	Number of Investigations	% Investigations with this Allegation Type
Abuse	43	33%
Exploitation	83	63%
Neglect	46	35%

The APS Policy Manual provides timelines for investigation completion. Investigators should conclude their investigation and submit their report within 90 days. The manual also provides guidance on when investigators can request extensions to complete an investigation. Supervisory review and report processing is completed within 30 days.

In examining the timeliness of completed investigations, there was a marked difference from previous years. In SFY'19, the APS Policy and Procedures Manual was revised to standardize and tighten the timeframes for all investigations (previously, investigations had different timeliness requirements based upon they type of maltreatment investigated). Largely due to this policy change in August of 2018, the average number of days for completion of unsubstantiated investigations in SFY'19 decreased to 58 (from 84 days in SFY'18), and the average number of days for an investigation recommending substantiation decreased to 83 (from 145 days in SFY'18).

When considering all investigations, the averages are skewed by investigations that have appropriate extensions but may be open for multiple years, primarily as a result of ongoing law enforcement investigations and criminal prosecutions. In SFY'19 there were no investigations closed that took over 500 days, but in the prior two years (SFY'18 and SFY'17), 10 investigations closed that took more than 500 days to complete. These investigations had appropriate extensions and were documented in previous APS Annual Reports. Removing just these 10 investigations reduced the average number of days for completion of all investigations from 111 days to 101 days. (This shows how the median, rather than the average, may be a more accurate reflection of the time it takes to complete typical investigations since a median number will eliminate those extended investigations from the data pool.)

Investigator Caseload Data

In SFY'19 the average daily caseload for APS Investigators was 18. In SFY'18, the average daily caseload for APS Investigators was 31, a significantly higher number, and an increase from the 20 in SFY'17 and the 19 in SFY'16. This decrease of the burgeoning caseload trend of the last few years correlates to policy changes in August of 2018 that established tighter investigative timeframes.

In SFY'19, the average daily total of open investigations was 181. In SFY'18, the average daily open investigations was 306. In SFY'17, the average open daily caseload was 216. Again, this correlates to the tighter investigative timeframes established in revised policy this year.

In SFY'18, each investigator completed an average of 88 investigations, or 1.7 per week.

Protective Services

During, and particularly after, an investigation, the investigator will discuss with the alleged victim and/or their legal representative appropriate protective services. Except where protective services are court ordered, the investigator works to implement protective services agreed to by the victim or their representative. Victims with decisional capacity can choose to decline all services. Services typically offered include:

- Referrals to service providers, including case management, guardianship service, mental health and developmental services, law enforcement, and health care;
- Securing change of representative payee;
- Petitioning for removal of a court-appointed guardian;
- Notifying and filing a misuse of funds report with the Social Security Administration;
- Alerting financial institutions of misappropriation of funds;
- Assisting the client to close/change banking or other accounts;
- Intervening in cases of identity theft;
- Petitioning for guardianship;
- Filing for temporary restraining orders and relief from abuse orders.

A Services and Protection Summary is required for completion of all investigations where the alleged victim was determined to be a vulnerable adult, and is optional for investigations where the alleged victim is determined not to be a vulnerable adult but has consented to receiving referrals and protections. The Services and Protection Summary assesses the unmet needs of the alleged victim and documents the referrals to service providers, referrals to law enforcement, and any protective services implemented.

Reviews and Appeals

Reviews and appeals are managed by the DAIL Legal Unit on behalf of the DAIL Commissioner. There are three primary review and appeal types:

1. When an intake is screened out, indicating that APS staff feel that an investigation is not warranted, the reporter may request this decision be reviewed by the DAIL Commissioner.
 - Of the 4,080 reports APS screened in SFY'19, less than 1% (25 total, or 0.612%) resulted in a request for the Commissioner to review and reconsider investigating. Of those 25 requests, 14 screening decisions were upheld, and 9 were opened for investigation: 56% upheld.
 - These results closely match the previous numbers from the last three years: in SFY'18, 22 review requests were made, 15 screening decisions were upheld, and 7 were opened for investigation: 68% upheld. In SFY'17, 23 reviews were conducted of an APS screening decision not to investigate. Of those, 12 of the screening decisions were upheld, resulting in 52% of decisions upheld. In comparison, in SFY'16, there were 13 reviews, of which 62% were upheld.
2. When an investigator recommends that an investigation **not** be substantiated, the reporter may request this decision be reviewed by the DAIL Commissioner.
 - There were 5 reviews of an APS investigation resulting in unsubstantiation; of those, all 5 were upheld.
 - In the prior three years, in SFY'18 there were 3 reviews of an APS investigation resulting in all 3 upheld by the Commissioner. In SFY'17, there were 5 reviews of an APS investigation resulting in unsubstantiation. Of those, 4 were upheld, resulting in 80% of decisions upheld. In comparison, in SFY'16, there were 2 reviews, of which 100% were upheld.
3. When an investigator recommends substantiation after an investigation, the alleged perpetrator may appeal that decision to the DAIL Commissioner and/or the Human Services Board (HSB). HSB decisions may then be appealed to the Vermont Supreme Court.
 - Of the 131 investigations recommended for substantiation, 18 (13.7%) were appealed to the Commissioner and/or the Human Services Board. Of those, 10 of the recommendations were upheld, resulting in 55.5% of APS contested recommendations upheld. Of the 15 appeals made to the Human Services Board, 12 (80%) were upheld.
 - These results closely match numbers from the last two years: in SFY'18, of the 121 investigations recommended for substantiation, 20 (16.5%) were appealed to the Commissioner and/or the Human Services Board. Of those, 11 of the recommendations were upheld by the Commissioner, resulting in 55% of contested decisions upheld. 5 were upheld by the Human Services Board, and 4 were overturned (either by the Commissioner or the Human Services Board), resulting in 80% of contested determinations being upheld. In SFY'17, there were 21 appeals of a recommendation of substantiation. Of those, 12 of the

recommendations were upheld, resulting in 57% of decisions upheld. In comparison, for SFY'16, there were 41 appeals, of which 76% were upheld.

- There were no appeals that concluded with the Vermont Supreme Court in SFY'19.

Adult Abuse Registry

APS is responsible for maintaining and managing the Vermont Adult Abuse Registry, which provides a confidential listing of individuals who have been substantiated for abuse, neglect and/or exploitation of a vulnerable adult. The registry may be accessed by current or prospective employers whose employees or volunteers serve vulnerable adults and/or children. The Adult Abuse Registry receives over 50,000 checks a year. Each check is partially automated but does require the review and action of an APS staff member to complete, requiring APS to dedicate a minimum of 0.5 FTE to complete the registry check process.

In SFY'19 there were 59,411 checks run against the Adult Abuse Registry by subscribers.

In SFY'19, APS placed 157 individuals on the registry. In comparison, in SFY'18, APS placed 106 individuals on the registry, and in SFY'17, APS placed 79 individuals on the registry, representing a 99% increase between SFY'17 and SFY'19. Also, 178 incomplete registry placements dating back to the 1990s were updated with complete information using open-source background data as part of the registry record completion project. New use of these data tools allows us to confirm appropriate registry placements that may not have been possible in the past due to inadequate information available through investigations alone.

The number of individuals placed on the registry will not match the number of investigations recommended for substantiation for two reasons:

- Appeals will delay the addition to the registry if upheld and will prevent individuals from being placed on the registry if overturned.
- When an alleged perpetrator has allegedly harmed multiple vulnerable adults, there will be a separate investigation for each vulnerable adult. As a result, there can be multiple investigations that recommend substantiation against a single individual.

Expungement

After an individual has been placed on the Adult Abuse Registry, they can make a request to the DAIL Commissioner to have their name expunged. To be expunged, individuals generally must speak to activities they have engaged in to create change in their thinking and/or behavior since the substantiation which indicates that they no longer pose a risk to vulnerable adults.

In SFY'19 there were 7 expungement requests resulting in the removal of 4 individuals from the Adult Abuse Registry. In comparison, in SFY'18 there were 17 expungement requests resulting

in the removal of 10 individuals from the Adult Abuse Registry. And in SFY'17, there were 18 expungement requests resulting in the removal of 10 individuals from the Adult Abuse Registry.

Beyond SFY'19

APS Committee and File Review

APS continues to value our work with volunteers and community partners on the APS Committee of the DAAL Advisory Board and through the file review process. During file reviews, individuals on the APS Committee review reports and investigations to provide feedback. Anyone interested in becoming a committee member should contact John Gordon, Director of APS, at john.gordon@vermont.gov.

Statutory Review

The statutory language establishing APS was written in the 1970s, at a time when vulnerable adults were largely cared for in institutional settings, and very different views on the ability of vulnerable adults to make decisions regarding their own care and life were dominant in society. APS will be working with both internal and external partners to identify areas of the statute that might benefit from an update, and will look to work with the Vermont Legislature to make these changes.

Regional Outreach

APS will be collaborating with other departments in AHS to host regional gatherings to inform communities and service providers about the role, responsibility, and statutory authority of APS. This outreach will include mandatory reporter training.

Administration for Community Living (ACL) Grant Application

APS, in cooperation with key Vermont stakeholders and community partners, submitted a grant application in June 2019 to ACL. If awarded, the proposed three-year project will create, coordinate and maintain a Restorative Justice Program aimed at serving a currently unmet need for the participants served by APS in Vermont. The program will seek to serve both victims and perpetrators of maltreatment. The goal of this project is to provide a meaningful, strength-based, participant driven response to the victims and perpetrators of vulnerable adult maltreatment in Chittenden and Franklin County.