

Report to
The Vermont Legislature


**Annual Report on
Adult Protective Services for State Fiscal Year 2014**

In Accordance with Act 79 (2006), Sec. 12, as amended by Act 46, (2013), Sec. 3,
An act relating to criminal abuse, neglect, and exploitation of vulnerable adults.

Submitted to: **Senate Committee on Judiciary**
Senate Committee on Health and Welfare
House Committee on Judiciary
House Committee on Human Services

Submitted by: **Hal Cohen**
Secretary
Agency of Human Services

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Commissioner
Department of Disabilities, Aging, and Independent Living

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Reporting Requirement

The Division of Licensing and Protection (DLP) in the Department of Disabilities, Aging and Independent Living (DAIL), Agency of Human Services, is pleased to present the State Fiscal Year 2014 (SFY14) Legislative Report on the Adult Protective Services (APS) program, in accordance with Act 79 (2005), Sec. 12, as amended by Act 46, (2013), Sec. 3, located at Appendix A, with data required by Act 46 at Appendix B.

Success Story

This story illustrates how one vulnerable adult is better off as a result of the work of APS in SFY14. The name of the alleged victim has been changed to protect her identity.

Louise has a cognitive impairment and requires personal assistance to meet her daily needs. Unfortunately, her previous caregiver stopped providing care without making other arrangements or notifying anyone. Louise struggled to live on her own, and within several months her home was filled with trash. She had no working lights, hot water, or usable appliances, despite the fact that she had sizable financial assets. Her home was in a private, rural area, so no members of her community knew of her living conditions.

APS was contacted because Louise was seen in her local community confused and disoriented. Within 72 hours of receiving the report, an APS Investigator was onsite and acted immediately to coordinate community support and to arrange for long overdue medical care. Louise now lives in a clean home with new appliances in good working order. She has a guardian, a case manager to help her with life skills and other services, and ongoing support including shopping and participation in community events.

In addition to the support provided Louise, APS recommended the previous caregiver be placed on the Adult Abuse Registry so they would not be able to work with vulnerable adults in the future. This recommendation was upheld by the DAIL Commissioner. At the time of this report, the caregiver's placement on the registry is pending a possible appeal to the Human Services Board.

APS Mission and Organizational Structure

Vermont's APS program 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 DLP, with the APS Program Chief 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 as a result of complaints and self-reports from the facilities.

During SFY14, APS was staffed with 15 FTE positions, as follows:

- 1 Program Chief
- 2 Field Supervisors (with each .5 FTE Supervision/.5 FTE Investigator)
- 10 Field Investigators
- 2 Program Specialists (Intake, Screening)

Services Delivered by APS

APS delivers the following services in response to reports of alleged abuse, neglect, or exploitation of vulnerable adults.

Community Outreach and Education

APS provides training to the staff of community-based providers and other community groups in an effort to prevent and reduce the abuse, neglect and exploitation of vulnerable adults. They review applicable laws and policies, such as reporting requirements for mandated reporters, and show how to make a report when someone suspects a vulnerable adult is at risk.

APS continued to lead the Financial Abuse Specialist Team (FAST), which brought together private and public organizations collectively working to prevent financial exploitation.

In SFY14, APS staff conducted 28 community outreach and training meetings with 523 people in attendance.

Intake and Screening

APS performs intake for the division, including intakes where the reporter intended the report to be delivered to S&C.

Within 48 hours of receiving an intake, 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 investigator is assigned and an investigation conducted. If these criteria are not clear, an APS Investigator may be sent to perform a field screen to make a determination. APS staff make appropriate referrals to other organizations that could assist the reporter and/or alleged victim, even if an intake is not referred to investigation.

In SFY14, APS received 4,037 intakes for DLP. A perfect comparison can not be made to the previous year, as intakes referred to S&C were not entered into the APS case management system consistently in SFY13. However, removing intakes that were referred to S&C without an APS investigation results in 2,714 APS intakes for SFY14 and 1,897 for SFY13, an increase of 43%.

Investigation

When an investigation is warranted, APS Investigators 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 will make a recommendation for substantiation to the DAIL Commissioner if the evidence indicates there was abuse, neglect, or exploitation.

In SFY14, APS assigned 1,515 investigations for investigation. The number of investigations assigned is 488 more than the previous year, which is an increase in 48%

In SFY14, APS completed 1,366 investigations. The number of investigations completed is 427 more than the previous year, which is an increase of 45%.

In SFY14, APS recommended 165 substantiations. The number of substantiations is 24 more than the previous year, which is a 17% increase. Two of the substantiations were made automatically without investigation as a result of a criminal conviction.

In SFY14, APS recommended substantiations in 12% of the cases they completed investigations. This is a 20% decrease from the SFY13 recommended substantiation rate of 15%.

In SFY14, the average daily caseload for APS Investigators was 30. This is a 25% increase from the SFY13 average daily caseload of 24.

In SFY14, the average daily open cases for APS was 335. This is a 42% increase in the SFY13 average daily open cases of 236.

Protective Services

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. Victims with decisional capacity can choose to decline all services. Some services that can be offered are:

- Referrals to service providers, including case management, guardianship services, 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.

In SFY14, APS implemented 629 of the protective services listed above.

In SFY14, 555 adults with decision capacity refused protective services from an APS Investigator.

In SFY14, APS Investigators completed 392 Written Coordinated Treatment Plans, which are completed during the investigation by the investigator, when necessary, for both substantiated and unsubstantiated cases.

Appeals

There are two types of appeals:

- When an intake is screened out indicating that APS staff feel that an investigation is not warranted, the reporter may appeal this decision to the DAIL Commissioner.
- When an investigator recommends substantiation after an investigation, the alleged perpetrator has the opportunity to appeal that decision to the DAIL Commissioner and/or the Human Services Board (HSB).

For the 165 recommended substantiations made in SFY14, 10% were overturned by the DAIL Commissioner or her delegate and 11% are still in the appeal process. A single case was overturned by the HSB to date.

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.

In SFY14, APS placed 95 individuals on the registry, which was the same number as in SFY13.

In SFY14, APS conducted 54,307 registry checks. This was 3,781 more checks than in SFY13, a 7.5% increase.

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 placement 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.

In SFY14, one individual was expunged from the registry.

In SFY13, three individuals were expunged from the registry.

SFY14 Program Highlights

Changes in Leadership

Clayton Clark became DLP Director in December 2014. He has 20 years of federal and state government experience, previously serving as Vermont's Director of Veteran Services and as a captain in the U.S. Air Force. He has a Master's Degree in government from Harvard University, with a focus on the measurement of government systems.

John Bouthillette became APS Program Chief in May 2014. He is the retired Chief of Police from the South River New Jersey Police Department with a 26-year career in law enforcement. He holds a Master's Degree in human resources training and development from Seton Hall University and a Master Certificate in public administration from Rutgers University. He is also a graduate of the 236th Session of the FBI National Academy. His background includes training in law enforcement accreditation management and assessment and is recognized as a subject matter expert who has lectured both nationally and internationally on the topic of officer safety and survival. He has lectured on behalf of the United States Marshal's Service, Federal Bureau of Investigation, the FBI National Academy Association, and the United States Department of Justice / Bureau of Justice Assistance.

Standardized Monthly and Quarterly Reporting

Monthly and quarterly reporting was improved beginning in January 2014. Reports were expanded and followed a consistent format to assist both in APS management and in operating transparently to the public. Appendix C is the monthly report for June 2014 that provides data for the final six months of SFY14. Appendix D is the quarterly report for the fourth quarter of SFY14, which provides data on all of SFY14. As with this annual report, the minimum reporting requirements for quarterly reports APS was established by Act 79 (2005), Sec. 12, as amended by Act 46, (2013), Sec. 3, located at Appendix A.

APS Settlement and File Reviews

DAIL settled a lawsuit with private organizations over the APS program on August 26, 2013. The settlement made changes to the APS policy manual and established a File Review Panel to review APS files on a quarterly basis and report their findings to the APS Sub-committee of the DAIL Advisory Board. The settlement laid out eight benchmarks revolving largely around timeliness and allowed for the reviewers to comment on APS practices. The reviews began with files from the first quarter of SFY14.

Appendix E shows the results of the reviews on eight benchmarks for the four quarters of SFY14. Although there are still areas that need improvement, the APS staff has done a tremendous job in adopting and meeting these standards. For the first quarterly review APS met one benchmark, and for the last two quarters APS has met all but one. All benchmarks have been met at least once.

As part of their narrative review, the File Review Panel has consistently raised concerns over three topics:

- Whether intakes referred to S&C for investigation should also have an APS investigation.
- Whether S&C reports back to APS when S&C finds evidence of abuse, neglect, and/or exploitation as part of their work.
- Whether APS is doing enough regarding referrals made in the written coordinated treatment plan.

DLP and APS leadership is committed to addressing these three areas in SFY15.

Ongoing SFY14 Investigations

There were 1,515 intakes assigned to investigation in SFY14. As of January 1, 2015, all but 13 of those investigations have been completed (99.1% completed). Appendix F lists the SFY14 investigations that are ongoing and the reasons why. There are no ongoing investigations from SFY13 or prior. All investigations over 90 days old are highlighted in each investigator's weekly activity report to ensure they are resolved as quickly as possible.