

Report to
The Vermont Legislature


**Annual Report on
Adult Protective Services for State Fiscal Year 2016**

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

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Reporting Requirement to Vermont Legislature

On or before January 15 of each year until January 15, 2018, the Secretary of the Agency of Human Services shall submit a report on Adult Protective Services (APS) to the House and Senate Committees on Judiciary, the House Committee on Human Services, and the Senate Committee on Health and Welfare. This report is required by Act 79 (2005), Sec. 12, as amended by Act 46, (2013), Sec. 3, which is provided at Appendix A.

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 this State Fiscal Year 2016 (SFY16) Legislative Report on APS. Below is a narrative description of APS activities for SFY16, followed by the data required by Act 46 at Appendix B.

Success Story: Family Dynamics

Adult Protective Services is committed to the DAIL mission of making Vermont the best state to grow old or live with a disability, with respect, dignity, and independence. Although family and friends can be the source of much of the joy in life, more often than not the alleged perpetrators encountered by APS fall into these two categories. In SFY16, 55% of alleged perpetrators for APS investigations were family or friends. This creates a complicated dynamic for investigators looking to protect vulnerable Vermonters from people to whom they have strong emotional connections.

One such case occurred in SFY16 when APS received a report from the adult child of a vulnerable adult. The adult child was concerned that their parent was being financially exploited by their spouse, who was not their parent. An APS investigator visited the parent and discovered that all was in order. The parent had some infirmities of aging but was still capable of making decisions and was sharing expenses as expected with their spouse. Both were happy with the arrangement. The parent expressed their opinion that the adult child's primary interest was limiting the money the parent would spend to maximize their inheritance.

When the adult child learned that APS would not recommend substantiation for exploitation, they went to probate court to claim that their parent was not competent and needed a guardian. An emergency temporary guardianship was granted by the court, and shortly thereafter the child, with the assistance of law enforcement, had their parent removed from their home.

APS assisted the parent's spouse with navigating court proceedings and was able to arrange for the parent to participate in hearings. When the judge met the parent they quickly determined that the parent was more than fit to make their own decisions and the guardianship was revoked. The parent returned home with their spouse, after receiving an apology from the judge, and they continue to be a happy couple.

This story shows the fluidity of APS' investigations when working with families. The parent's spouse, who was originally the alleged perpetrator, was assisted by APS, and the adult child, who was originally the reporter, was the person the parent needed protection from.

Adult Protective Services' Mission and Organizational Structure

Vermont's Adult Protective Services (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 the Division of Licensing and Protection (DLP), with the Assistant Director for Adult Protective Services 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 SFY16, APS was staffed with 16 FTE positions, as follows:

- 1 Assistant Director for APS (APS Director)
- 2 APS Field Supervisors (with each .5 FTE Supervision/.5 FTE Investigator)
- 10 APS Investigators
- 2 Program Specialists (Intake, Screening)
- 1 APS Senior Planning Coordinator (System Administration)

Services Delivered by Adult Protective Services

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 to prevent and reduce the abuse, neglect and exploitation of vulnerable adults and to increase appropriate referrals when maltreatment is a concern. They review applicable laws and policies, such as reporting requirements for mandated reporters, and detail how to make a report when someone suspects a vulnerable adult is at risk.

In SFY16, APS worked with department leadership to create a new section to the APS Policy Manual regarding mandatory reporting. This, coupled with a new appendix to the policy manual covering definitions, helped standardize training offered to community members across the state. Beginning in September 2016 trainings are now offered monthly at the Waterbury State Office Complex, with distance learning options in the works for SFY17. APS expects that the improved training and its ongoing availability will result in an increase in reports.

Intake and Screening

All APS investigative activities began with a report filed with intake staff. Below is a list showing the reporting options and the percentage of reports received for the year with this option:

Online	54%
Telephone	26%
Fax	13%
Email	6%
Walk in	1%

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 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.

APS did make a major change in operations regarding the processing of reports in SFY16. Prior to November 2015, APS intake staff received and processed reports for the entire division, including reports intended only for Survey and Certification (S&C) regarding health care organizations. These complaints generally did not contain allegations of abuse, neglect, or exploitation and therefore were not relevant for APS. Division and S&C leadership determined that it was a better use of resources for S&C staff to take self-reports from facilities directly instead of having them pass through APS. This change ensures that information is received promptly by S&C and has reduced the workload for the APS intake staff. As a result, the total number of reports processed by APS staff will be less than in previous years.

In SFY16, APS received 3,835 reports. In comparison, APS received 4,295 reports in SFY15. This decline is a result of the operation change described above. When removing reports that were not screened in for investigation and assigned to S&C, the number of reports to APS was 3,079 in SFY15 and 3,312 in SFY16. This shows that the true number of reports received for APS increased by 8% over the past year.

There were two APS staff members to process the reports received in SFY16. This resulted in each staff member processing nearly two thousand reports. In order to match the pace of reports received during this year, intake staff must average under 58 minutes to complete each report, which includes writing up the allegations, making follow up calls to reporters and other individuals with information regarding the report, making a screening decision consistent with statute, documenting that screening decision, making appropriate referrals to service providers for benefits, making appropriate referrals to law enforcement and other protective services, mailing notifications to parties, and assigning the investigation, if necessary.

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 DAAL Commissioner if the evidence indicates there was abuse, neglect, or exploitation.

In SFY16, APS assigned 1,318 reports for investigation or field screen. In SFY15 there were 1,785 reports referred to investigation or field screen, that represented a 26% decrease from SFY15 to SFY16.

In SFY16, APS completed 515 field screens and 624 investigations, for a total of 1,139. In SFY15 there were a total of 1,587 fields screens and investigations completed, representing a 28% decrease from SFY15 to SFY16.

In SFY16, APS recommended 97 substantiations, which was 16% of the total investigations. In SFY15, APS recommended 205 substantiation, which was 14% of the total investigations. Of those 97 recommended substantiations in SFY16, the alleged victim was a resident of a licensed facility in 14 of the investigations, or 14% of the recommended substantiations. Most of the abuse, neglect, and exploitation APS investigates is not in an institutional setting.

In SFY16, the average daily caseload for APS Investigators was 19. In SFY15, the average caseload was 29, showing that caseloads have decreased by 34% in the past year. APS anticipates that caseloads will increase in SFY17 as a result of improved training for mandatory reporters.

In SFY16, the average daily open investigations/field screens for APS was 216. In SFY15, the average open daily caseload for APS was 314.

Each investigator averaged completing 62 investigations and 52 field screens for a combined load of 114 or 2.2 per week in SFY16.

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 typically offered include:

- 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 SFY16, APS implemented 489 of the protective services listed above and developed 228 Services and Protections Summaries (previously called a Written Coordinated Treatment Plan).

In SFY16, 137 adults with decisional capacity refused protective services from an APS Investigator, 10% of the adults involved with an APS investigation or field screen.

Appeals

There are three primary appeal types:

- 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 investigation is completed and results in an unsubstantiation, the reporter may appeal this decision to the DAIL Commissioner.
- 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 be appealed to the Vermont Supreme Court.

Appeals are managed by the DAIL Legal Section on behalf of the DAIL Commissioner. Below is information on appeals for SFY16

- There were 13 appeals of an APS screening decision not to investigate. Of those, eight of the screening decisions were upheld, resulting in a 62% rate of decisions upheld.
- There were two appeals of an APS investigation resulting in unsubstantiation. Of those, both decisions were upheld, resulting in a 100% rate of unsubstantiations upheld.
- There were 41 appeals of a recommendation of substantiation that were appealed at the DAIL Commissioner's level. Of those, 31 of the recommendations were upheld, resulting in 76% rate of substantiation recommendations upheld at that level.
- There were 15 appeals of a recommendation of substantiation that were appealed at the Human Services Board. Of those, 8 of the recommendations were upheld, resulting in 53% rate of substantiations upheld at that level.
- There was one appeal of a recommendation of substantiation that we appealed at the Vermont Supreme Court. That appeal was upheld, resulting in 100% rate of substantiations upheld at that level.

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.

In SFY16, APS placed 64 individuals on the registry. In SFY15, 155 individuals were placed on the registry, which represents a 59% decrease from the past year.

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. 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 a reduced risk to vulnerable adults.

In SFY16, there were 28 expungement requests resulting in the removal of 10 individuals from the Adult Abuse Registry.

Next Steps beyond SFY16

Continued Work with APS Subcommittee and External File Review

As described in the SFY15 report, APS completed a settlement agreement with litigants who sued the agency over APS practices in December 2015. The settlement agreement required the creation of an APS Subcommittee. Although the settlement agreement concluded, DAIL found the APS Subcommittee to be a valuable resource, to include advising APS on policy matters. In addition, APS found that having external file reviewers was a great way to inform continuous quality improvement efforts. The file reviews have continued, with the review for the final quarter of SFY16 showing that APS was doing well with its investigative work but could improve our intake process. APS is committed to working together with this group and in this format to continue the improvements made over the past three years.

Understanding SFY16 Numbers

For the past four years, APS has seen explosive growth along most measurements, to include but not limited to: reports received; investigations conducted; and individuals placed on the

registry. SFY16 saw a sharp decline along many of these measurements. APS management will be working in the coming months to understand these declines. As discussed above, APS will be collaborating closely with the APS Subcommittee and file reviewers to help understand these changes to ensure that APS continues to complete its mission.

Ongoing SFY16 and Earlier Investigations

There were 1,318 reports assigned to investigation or field screen in SFY16. As of November 29, 2016, all but 38 have been fully completed (97% completed). APS supervisors manage these cases to ensure they are closed as quickly as possible. Most investigations that remain open beyond six months involve a joint investigation with another investigative body, such as local law enforcement, the Office of Professional Regulation, and the Attorney General's Office. In SFY16, 13% of investigations were conducted jointly with a law enforcement agency.

There are nine active investigations from SFY15. All of these investigations involve criminal or family court proceedings.

There are no ongoing investigations from SFY14 or prior.

Appendix A: Act 46 (2013), An act relating to adult protective services reporting requirements, Section 3

Sec. 3. 2005 Acts and Resolves No. 79, Sec. 12 is amended to read:

Sec. 12. REPORT

(a) On or before January 15, 2006 and on or before January 15 of each year thereafter ~~until January 15, 2018~~, the ~~secretary of the agency of human services~~ Secretary of Human Services shall submit a report to the following committees: ~~the house and senate committees on judiciary, the house committee on human services, and the senate committee on health and welfare~~ House and Senate Committees on Judiciary, the House Committee on Human Services, and the Senate Committee on Health and Welfare. The report shall include:

- (1)(A) ~~The~~ For the preceding year, the number of reports of abuse, exploitation, and neglect:
- (i) received by ~~adult protective services~~ Adult Protective Services (APS) within the ~~department of aging and independent living~~ Department of Disabilities, Aging, and Independent Living, and the total number of persons who filed reports.
 - (ii) investigated by APS ~~during the preceding year~~.
 - (iii) substantiated by APS ~~during the preceding year~~.
 - (iv) referred to other agencies for investigation by APS ~~during the preceding year~~ regardless of whether reports were opened, substantiated, or

unsubstantiated, including identification of each agency and the number of referrals it received.

(v) referred for protective services by APS ~~during the preceding year~~, including a summary of the services provided.

(vi) resulting in a written coordinated treatment plan pursuant to 33 V.S.A. § 6907(a) or a plan of care as defined in 33 V.S.A. § 6902(8).

(vii) for which an individual was placed on the abuse and neglect registry as the result of a substantiation.

(viii) referred to law enforcement agencies.

(ix) for which a penalty was imposed pursuant to 33 V.S.A. § 6913.

(x) for which actions for intermediate sanctions were brought pursuant to 33 V.S.A. § 7111.

(B) For each type of report required from APS by subdivision (1)(A) of this section, a statistical breakdown of the number of reports according to the type of abuse and to the victim's:

- (i) relationship to the reporter;
- (ii) relationship to the alleged perpetrator;
- (iii) age;
- (iv) disability or impairment; and
- (v) place of residency.

Appendix B: Act 46 Required Data for SFY16

Data Element Label	SFY14	SFY15	SFY16
Number of Reports Received by Intake	4,037	4,295	3,835
Number of Reporters	3,744	3,574	3,279
Number of Intakes Referred to Investigation or Field Screen	1,515	1,785	1,318
Number of Investigations Substantiated	165	205	97
Referrals to Other Agencies*	2,333	2,192	1,134
Survey and Certification (DLP)	1,356	1,306	542
Area Agency on Aging (AAA)	372	325	259
Law Enforcement	276	327	179
Other Referral	206	152	102
Office of Professional Regulation	16	24	17
Vermont Legal Aid	48	35	12
Vermont Attorney General - Medicaid Fraud Unit	29	30	12
Department of Health	5	1	5
Disability Rights Vermont	18	20	4
Other DAIL Division	7	5	2
Referred to Protective Services*	629	949	489
Arranged for Counseling	153	287	154
Other Protective Service	96	152	97
Conducted Joint Investigation with Law Enforcement	83	102	81
Arranged for Increased Supervision	129	199	63
Obtained a Temporary Relief from A/N/E Order	32	32	22
Assisted with Securing Safe Living Conditions	47	69	20
Asked Bank to Freeze Accounts	19	26	15
Petitioned for Guardianship	26	21	12
Assisted with the Implementation of a Rep Payee	28	33	10
Assisted with the Execution of a POA	7	8	7
Dissolved a POA	5	8	6
Petitioned to Appoint a Successor Guardian	4	12	2
Protective Services Declined by an Adult with Decisional Capacity	555	331	137
Services and Protections Summaries (Previously Written Coordinated Treatment Plans)	392	489	228
Individuals Placed on the Adult Abuse Registry	95	155	64
Penalties Imposed Pursuant to 33 V.S.A. § 6913	0	0	0
Intermediate Sanctions Brought Pursuant to 33 V.S.A. § 7111	0	0	0

Data Element Label	SFY14	SFY15	SFY16
Victims' Relationship to Reporter			
Not Documented*	767	693	601
Other	536	545	420
Health/Medical Professional	310	441	336
Facility Staff	383	342	264
Social Worker	328	313	247
Mental Health Staff	274	204	190
Relative	207	254	187
Home Health/VNA	169	197	165
AAA	80	103	114
Developmental Services Staff	47	70	107
Police	63	76	84
Legal Guardian	9	34	46
Bank	22	40	37
Friend/Acquaintance	64	75	33
Doctor	14	13	23
School	9	19	20
Neighbor	9	17	19
Spouse	11	11	16
Anonymous	12	13	13
Non-Family Caregiver	14	20	11
Attorney	16	12	5
Home Provider	10	12	5
Probation/Parole Officer	4	6	4
Fellow Resident/Patient	3	6	3
Landlord	0	5	2
Ombudsman	9	3	1
Victims' Relationship to Alleged Perpetrator			
Not Documented*	644	671	655
Relative	682	839	590
Spouse/Partner	167	244	222
Other	272	299	210
Fellow Resident/Patient	409	291	191
Friend/Acquaintance	237	208	128
Non-Family Caregiver	117	101	99
Home Provider	49	57	76
Facility Staff	138	98	66
Health/Medical Professional	28	18	54
Neighbor	45	49	48
Legal Guardian	41	46	31
Home Health/VNA	40	31	31
Roommate	0	15	20
Mental Health Staff	39	31	19

Data Element Label	SFY14	SFY15	SFY16
Developmental Services Staff	15	23	16
Landlord	0	3	12
Social Worker	2	7	4
Probation/Parole Officer	0	1	4
Doctor	8	4	2
Police	3	0	2
Attorney	2	3	1
AAA	1	0	1
School	1	0	1
Ombudsman	0	0	1
Age Range			
18-59 Years Old	1,358	1,412	1,128
60-79 Years Old	952	1,070	909
Over 80 Years Old	871	907	791
Unknown	183	142	121
Vulnerable Condition			
Unknown	1,533	1,616	1,420
Mental Disability	1,307	1,375	1,006
Elderly/Frail	936	992	866
Physically Disabled	793	828	670
County of Residence			
Addison	132	136	158
Bennington	307	255	111
Caledonia	116	152	202
Chittenden	527	563	483
Essex	14	35	15
Franklin	253	311	241
Grand Isle	25	38	19
Lamoille	123	100	83
Orange	137	151	137
Orleans	142	145	143
Rutland	263	369	311
Washington	414	462	378
Windham	364	332	243
Windsor	276	261	245

Data Element Label	SFY14	SFY15	SFY16
Victims' Type of Residence			
Own Home	651	1,376	1,134
Not Documented*	717	528	504
Licensed LTC Facility	765	692	495
With Relative	347	277	295
With Caregiver	139	144	127
Other	195	139	126
Developmental Home	16	59	80
Psychiatric Facility	88	147	63
Unknown	36	66	50
Homeless	43	44	46
Hospital	19	48	29
Unlicensed Facility	8	0	0

*** Notes on Appendix B Data**

Referrals, protective services, and some demographic data were not consistently entered into the APS case management system by intake staff and investigators until November 2013, five months into SFY14 (42% of reporting period). The numbers reported for referrals and protective services in this report are what were documented by APS staff during the reporting period. For demographic data, the term "Not Documented" is used above when data was not collected by APS staff.