

Report to
The Vermont Legislature

**Annual Report on
Adult Protective Services for State Fiscal Year 2015**

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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Department of Disabilities, Aging, and Independent Living

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Report Date: **December 30, 2015**

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 2015 (SFY15) Legislative Report on APS. Below is a narrative description of APS activities for SFY15, followed by the data required by Act 46 at Appendix B.

Success Stories

These stories illustrate how two vulnerable adults are better off as a result of the work of APS in SFY15. The names and some of the details have been altered to protect their identities.

Tony

APS received a report that Tony was being neglected by his shared living provider (SLP). Tony has a significant cognitive impairment and very complex care needs. An APS Investigator visited Tony and his SLP to investigate if neglect occurred. The investigator was able to determine that the SLP was doing everything in their power to provide care for Tony, but Tony's needs were beyond their expertise. The investigator was able to work to have Tony moved to a more appropriate setting, which resulted in better care for him and allowed the SLP to work successfully with another vulnerable adult. APS was able to significantly improve the circumstances for both the alleged victim and alleged perpetrator in this case.

Lucy

Lucy is a 74 year old woman with Parkinson's Disease and dementia who lives in senior housing. A friend agreed to be Lucy's caregiver in exchange for housing. Someone who cares about Lucy filed a report with APS because they were concerned she was being neglected and financially exploited by her caregiver. An APS Investigator discovered that Lucy was not receiving appropriate care and that her caregiver interfered with the efforts of home health services in order to keep Lucy isolated and easier to exploit. The investigator coordinated with various service agencies to develop a safety plan, which included removing the caregiver and identifying a guardian and representative payee for Lucy. She now lives with adequate home services and her health has improved.

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 SFY15, APS was staffed with 16 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)
- 1 Administrative Services Coordinator

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 detail how to make a report when someone suspects a vulnerable adult is at risk.

Intake and Screening

APS performs intake for the entire 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 SFY15, APS received 4,295 intakes for DLP, a 6% increase over SFY14.

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 SFY15, APS assigned 1,785 investigations for investigation. The number of investigations assigned increased 16% since SFY14 and 74% since SFY13.

In SFY15, APS completed 1,587 investigations. The number of investigations completed increased 16% since SFY14 and 69% since SFY13. The average number of investigations completed per investigator in SFY15 was 144, or nearly 3 per week.

In SFY15, APS recommended 205 substantiations. The number of substantiations increased 24% from SFY14 and 45% from SFY13.

In SFY15, APS recommended substantiations in 13% of completed investigations. This rate was 12% in SFY14 and 15% in SFY13.

In SFY15, the average daily caseload for APS Investigators was 29. The average caseload in SFY15 was 3% lower than SFY14 and 21% higher than SFY13.

In SFY15, the average daily open cases for APS was 314. The average daily open cases was 6% lower than SFY14 and 33% higher than SFY13.

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 SFY15, APS implemented 949 of the protective services listed above, an 81% increase from SFY14.

In SFY15, 331 adults with decisional capacity refused protective services from an APS Investigator. This is a 40% decrease from SFY14.

In SFY15, APS Investigators completed 489 Written Coordinated Treatment Plans, which are completed during the investigation by the investigator, when necessary, for both substantiated and unsubstantiated cases. This is a 25% increase from SFY14.

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). HSB decisions may be appealed to the Vermont Supreme Court.

For the 205 recommended substantiations made in SFY15, 15% were overturned by the DAIL Commissioner or her delegate and 11% are still in the appeal process. To date, 74% of recommended substantiations for SFY15 have either not been appealed or have been upheld on appeal.

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 SFY15, APS placed 155 individuals on the registry, which was a 63% increase from SFY14.

In SFY15, APS conducted 54,324 registry checks, which is statistically equivalent to the number of checks made in SFY14.

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 order 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 indicate a reduced risk to vulnerable adults.

In SFY15, three individuals were expunged from the registry.

SFY15 Program Highlights

Completion of Settlement Agreement

In 2013, the Department of Disabilities, Aging, and Independent Living (DAIL) reached a Settlement Agreement with litigants who sued DAIL over concerns with APS processes. The Settlement Agreement established a system by which APS intakes and investigations would be reviewed by a File Review Panel consisting of three objective reviewers, with the reviewers then reporting their findings to the APS Subcommittee of the DAIL Advisory Board.

The last quarter of SFY15 was the final quarter reviewed by the panel. As a result of the significant progress APS has made over the past two years, the APS Subcommittee voted unanimously to recommend the end of the Settlement Agreement, which concluded in December 2015. Appendix C shows the results of all quarters reviewed by the panel.

Over the course of the Settlement Agreement, APS developed a positive working relationship with the litigants and the members of the APS Subcommittee, to include working with the litigants in SFY15 on improvements to the APS Policy Manual. APS also found that the file review process was extremely beneficial for continuous quality improvement. As a result, DAIL will continue working with the APS Subcommittee for feedback and advice on APS policies, and will continue to have a file review on a voluntary basis beyond the parameters of the settlement agreement.

Ongoing SFY14 and SFY15 Investigations

There were 1,785 intakes assigned to investigation in SFY15. As of January 8, 2016, all but 25 of these investigations have been completed (98.5% completed).

There were 1,515 intakes assigned to investigation in SFY14. As of January 8, 2016, all but one of those investigations have been completed (99.9% completed). The remaining case is a financial exploitation case involving over \$1 million in assets and probate court activity.

There are no ongoing investigations from SFY13 or prior.

All SFY14 and SFY15 cases remaining open are listed in Appendix D.

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 SFY15

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

Victims' Relationship to Reporter		
Not Documented*	767	693
Other	536	545
Health/Medical Professional	310	441
Facility Staff	383	342
Social Worker	328	313
Relative	207	254
Mental Health Staff	274	204
Home Health/VNA	169	197
AAA	80	103
Police	63	76
Friend/Acquaintance	64	75
Developmental Services Division	47	70
Bank	22	40
Legal Guardian	9	34
Non-Family Caregiver	14	20
School	9	19
Neighbor	9	17
Doctor	14	13
Anonymous	12	13
Attorney	16	12
Home Provider	10	12
Spouse	11	11
Probation/Parole Officer	4	6
Fellow Resident/Patient	3	6
Landlord	0	5
Ombudsman	9	3
Victims' Relationship to Alleged Perpetrator		
Relative	682	839
Not Documented*	644	671
Other	272	299
Fellow Resident/Patient	409	291
Spouse/Partner	167	244
Friend/Acquaintance	237	208
Non-Family Caregiver	117	101
Facility Staff	138	98
Home Provider	49	57
Neighbor	45	49
Legal Guardian	41	46
Home Health/VNA	40	31
Mental Health Staff	39	31
Developmental Services Division	15	23
Health/Medical Professional	28	18
Roommate	0	15

Self	5	7
Social Worker	2	7
Doctor	8	4
Landlord	0	3
Attorney	2	3
Anonymous	2	2
Probation/Parole Officer	0	1
Police	3	0
AAA	1	0
School	1	0
Age Range		
18-59 Years Old	1,358	1,412
60-79 Years Old	952	1,070
Over 80 Years Old	871	907
Unknown	183	142
Vulnerable Condition		
Unknown	1,533	1,616
Mental Disability	1,307	1,375
Elderly/Frail	936	992
Physically Disabled	793	828
County of Residence		
Addison	132	136
Bennington	307	255
Caledonia	116	152
Chittenden	527	563
Essex	14	35
Franklin	253	311
Grand Isle	25	38
Lamoille	123	100
Orange	137	151
Orleans	142	145
Rutland	263	369
Washington	414	462
Windham	364	332
Windsor	276	261

Victims' Type of Residence		
Own Home	651	1,376
Licensed LTC Facility	765	692
Not Documented*	717	528
With Relative	347	277
Psychiatric Facility	88	147
With Caregiver	139	144
Other	195	139
Unknown	36	66
Developmental Home	16	59
Hospital	19	48
Homeless	43	44
Unlicensed Facility	8	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.

Appendix C: APS File Review Panel Results

Below is a description of the eight settlement benchmarks, a summary of benchmark results for each of the six quarters reviewed, and charts showing results for each benchmark.

Description of Benchmarks

BENCHMARK # 1: Completed Report Received Benchmark: 90%

Closed contacts based on reports containing sufficient information to contact the reporter must include at least two attempts to reach the reporter prior to closing, unless the allegations in the report fit within a policy exception identified in the APS Policy Manual or clearly do not meet the statutory requirement in 33 V.S.A 6902.

BENCHMARK # 2: Incomplete Report Received Benchmark: 90%

Closed contacts based on reports considered incomplete as received must include two follow-up calls to the reporter within 48 hours of receipt of the incomplete report.

BENCHMARK # 3: Reporter & Victim Notification Benchmark: 80%

Closed contacts based on incomplete-as-received reports must include a follow-up letter to the reporter and victim within five business days of receipt of the incomplete report explaining why the report was not accepted. The reporter letter must also include information regarding the report's appeal rights.

BENCHMARK # 4: Assignment & Initiation Benchmark: 80%

Complete reports alleging abuse, neglect and exploitation of a vulnerable adult are assigned to a field investigator within 48 hours of receipt (or 48 hours of completion of in-complete- as-received report).

BENCHMARK #5: Triage #1 Benchmark: 80%

Cases categorized as Triage level 1 include direct contact with the alleged victim or reporter within two business days of assignment and in-person contact with the victim within five business days, unless such contact would jeopardize the health, welfare or safety of the alleged victim, or the alleged victim objects to an interview.

BENCHMARK #6: Triage #2 or Triage #3 Benchmark: 70%

Cases categorized as Triage level 2 or 3 include direct contact with the alleged victim or reporter within five business days of assignment, unless such contact would jeopardize the health, welfare or safety of the alleged victim, or the alleged victim objects to an interview.

BENCHMARK #7: Non-Financial Exploitation Closures Benchmark: 90%

Investigations that are not allegations of financial exploitation are closed within 60 days of assignment or receive a supervisory extension pursuant to APS Policy and Procedure Manual § VII (C).

BENCHMARK #8: Financial Exploitation Closures Benchmark: 90%

Financial exploitation cases are closed within 90 days of assignment or receive a supervisory extension pursuant to APS Policy and Procedure Manual § VII (C).

Benchmark Results by Quarter

1st Quarter Review: Achieved 1 of 7 Benchmarks (14%)

Missed Benchmarks 1, 2, 4, 6, 7, 8

Benchmark 5 not measured as no priority 1 investigations.

2nd Quarter Review: Achieved 3 of 7 Benchmarks (43%)

Missed Benchmarks 1, 2, 7, 8

Benchmark 5 not measured as no priority 1 investigations.

3rd Quarter Review: Achieved 7 of 8 Benchmarks (88%)

Missed Benchmark 8

4th Quarter Review: Achieved 6 of 7 Benchmarks (86%)

Missed Benchmark 2

Benchmark 5 not measured as no priority 1 investigations.

5th Quarter Review: Achieved 7 of 7 Benchmarks (100%)

Missed no benchmarks

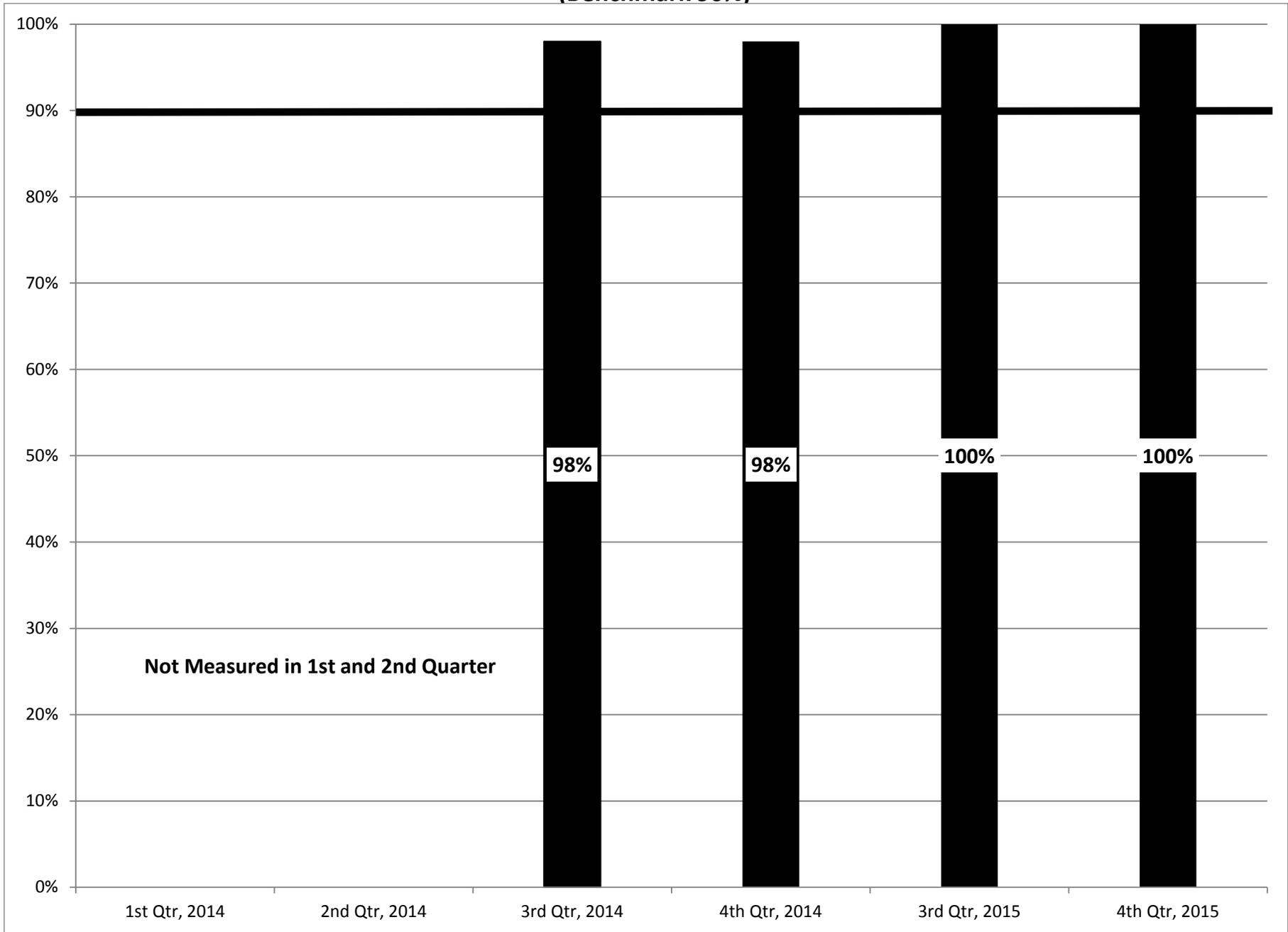
Benchmark 5 not measured as no priority 1 investigations.

6th Quarter Review: Achieved 6 of 7 Benchmarks (86%)

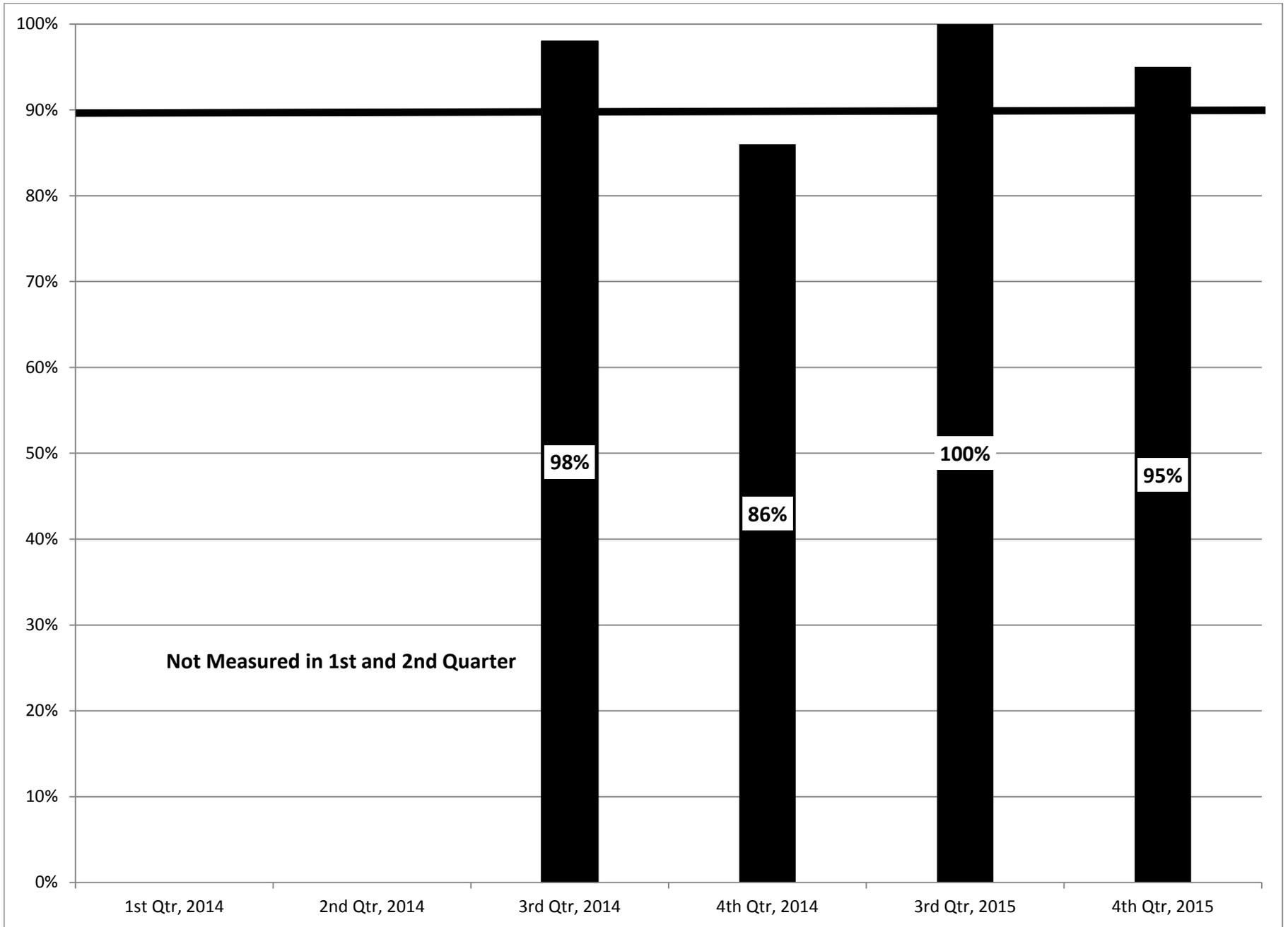
Missed Benchmark 7

Benchmark 5 not measured as no priority 1 investigations.

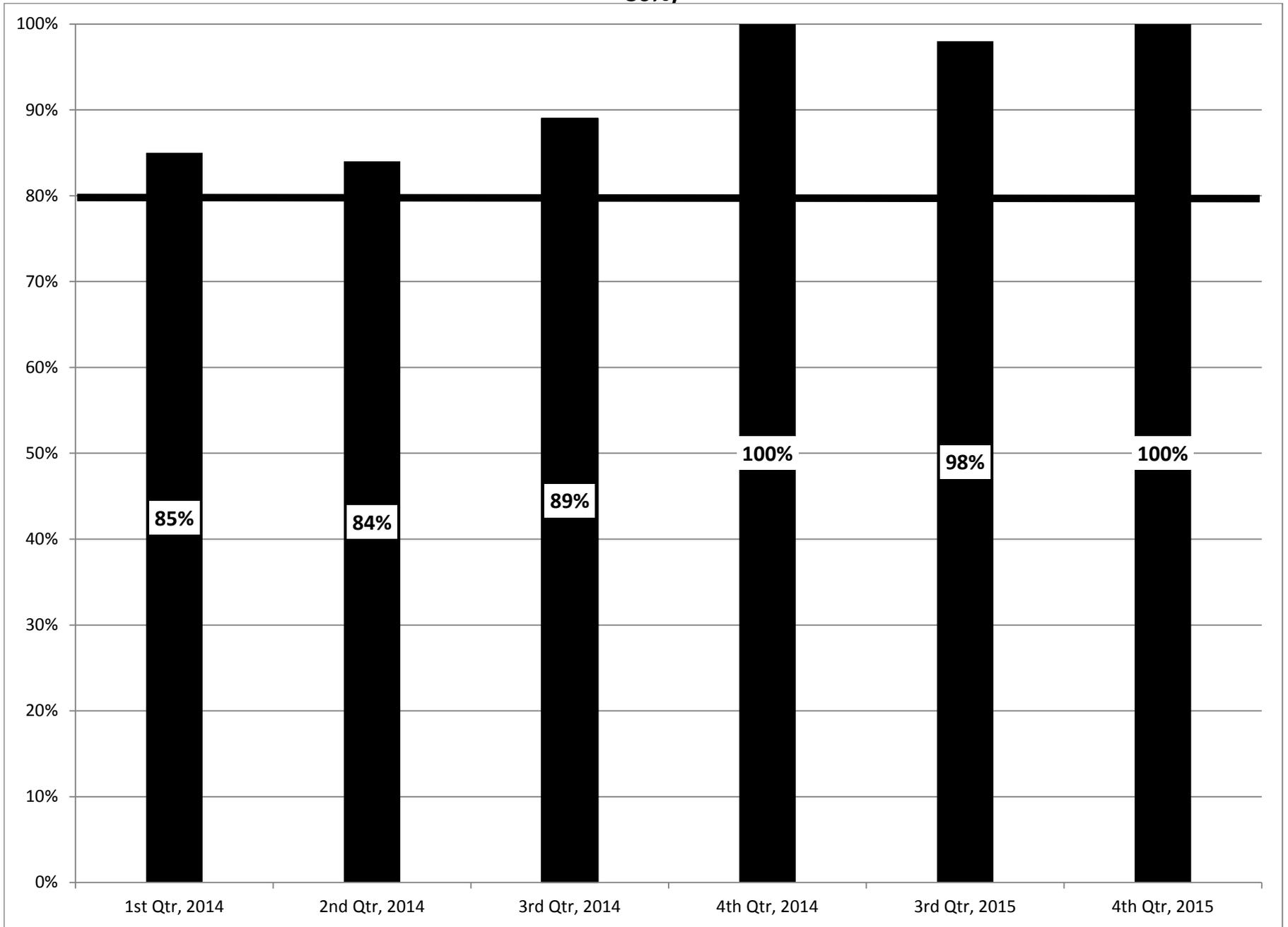
**Benchmark 1, Contact to Reporter Before Closing when Intake Complete and Not Referred to Investigation
(Benchmark 90%)**



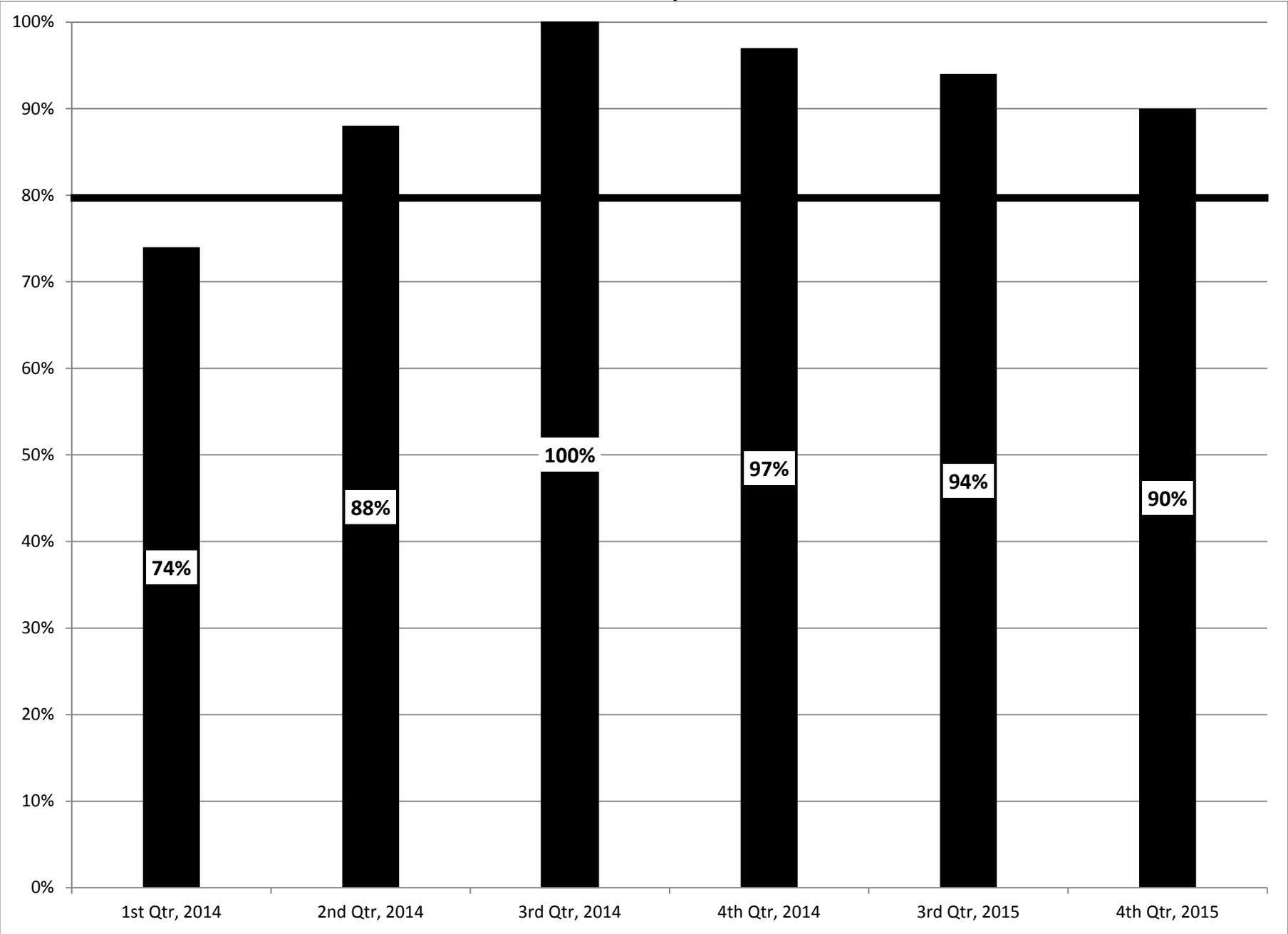
Benchmark 2, Reporter Contact within 48 Hours and Before Closure for Incomplete Reports (Benchmark 90%)



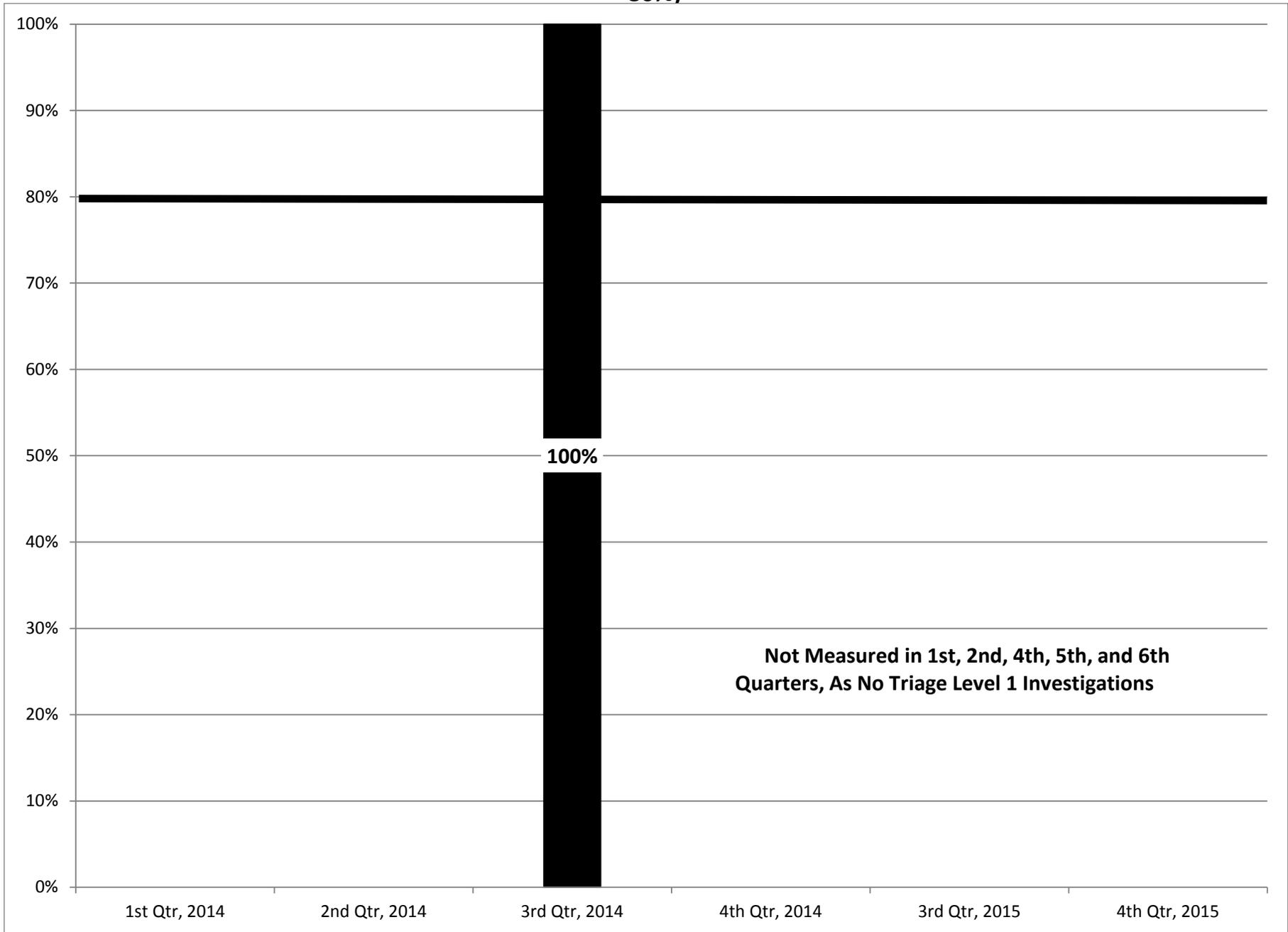
Benchmark 3, Reporter and Victim Notification of Closed Contact, Including Appeal Rights, within 5 Days (Benchmark 80%)



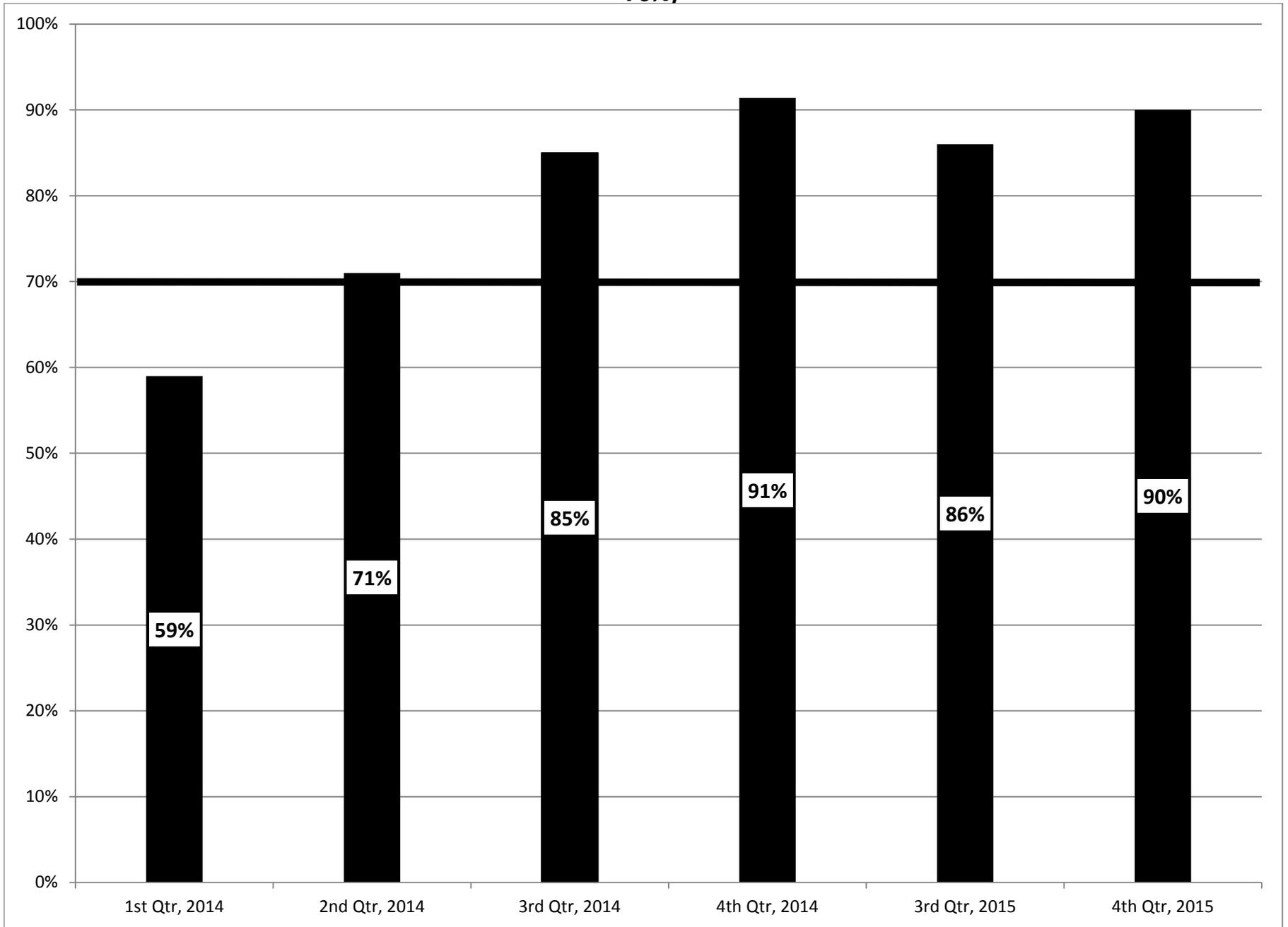
Benchmark 4, Complete Intakes Warranting Investigation are Assigned to Investigation within 48 Hours (Benchmark 80%)



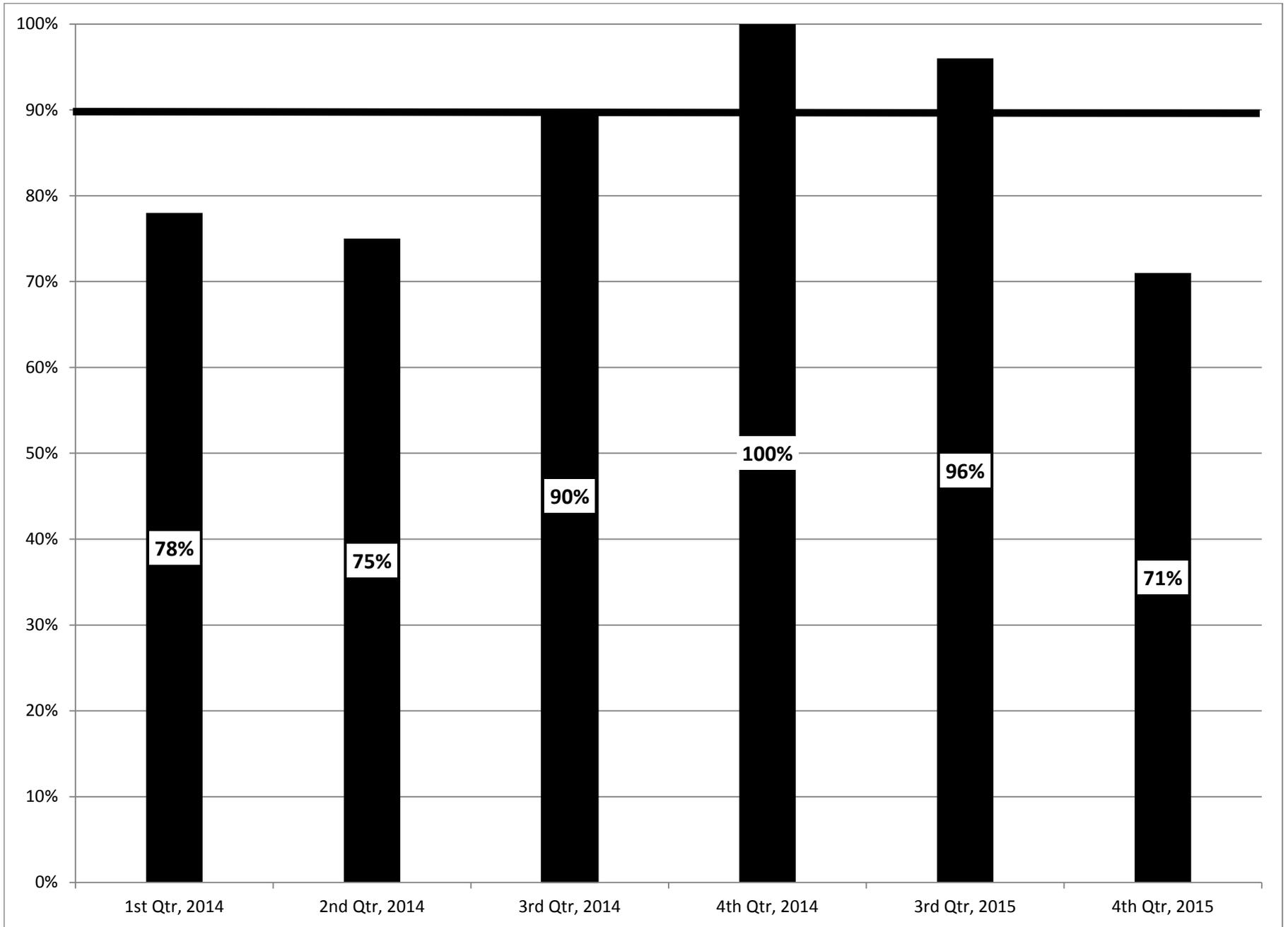
Benchmark 5, Contact with Reporter or Victim within 5 Business Days for Triage Level 1 Investigations (Benchmark 80%)



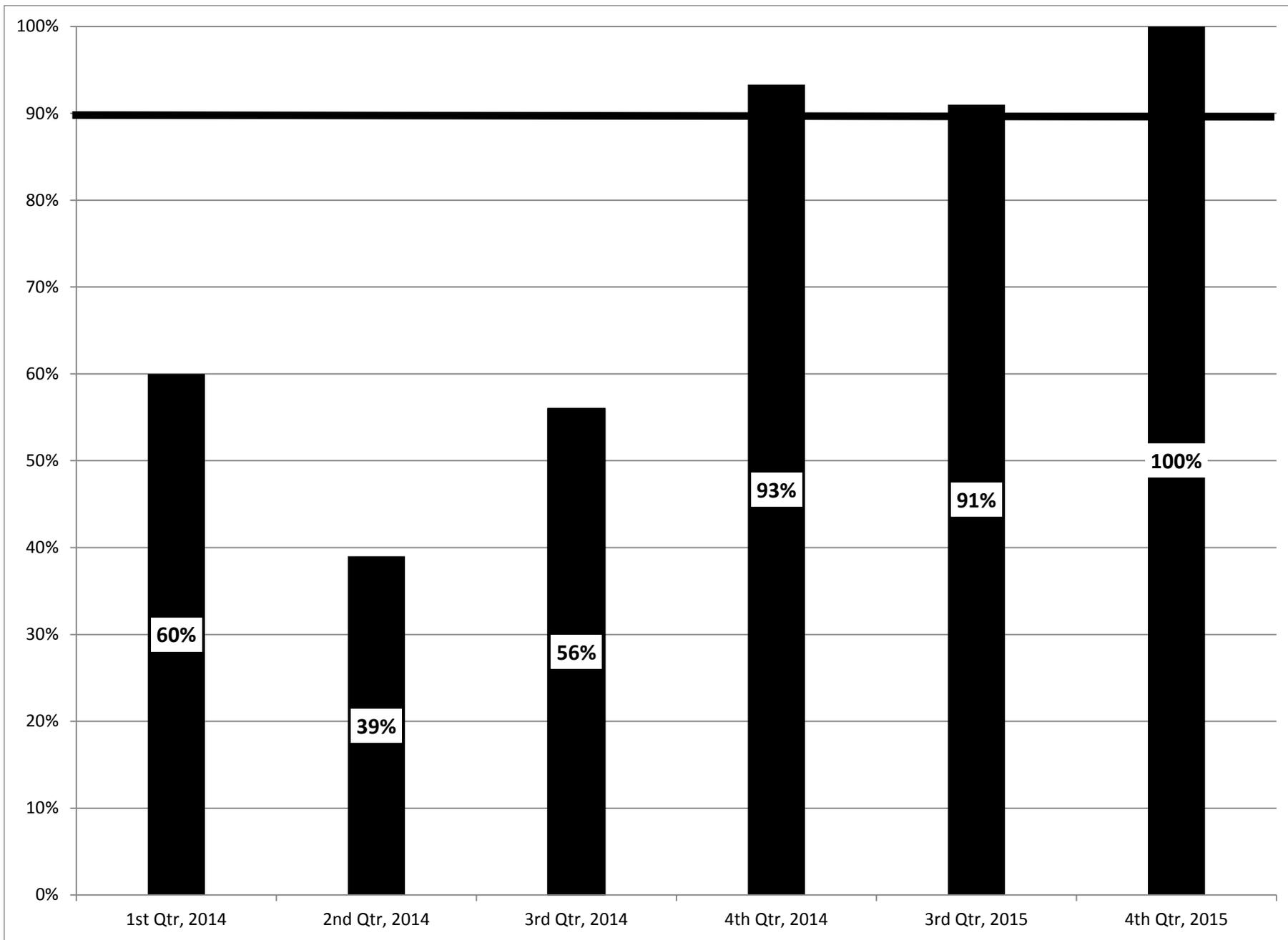
Benchmark 6, Contact with Reporter or Victim within 5 Business Days for Triage Level 2/3 Investigations (Benchmark 70%)



Benchmark 7, Non-Financial Exploitation Investigations Completed within 60 Days (Benchmark 90%)



Benchmark 8, Financial Exploitation Investigations Completed within 90 Days (Benchmark 90%)



Appendix D: Ongoing APS Investigations from SFY14 and SFY15

The following 26 investigations from SFY14 and SFY15 are ongoing as of January 8, 2016. Some details are purposefully vague so as not to reveal sensitive information pertaining to the investigation.

Case Number	Assignment Date	Reason
4269	5/15/2014	Ongoing probate court activity.
4495	7/14/2014	Investigation concluded but still being documented. Complex financial exploitation case with over \$250,000 in assets to review. Closure expected by 1/22/2016.
4613	8/7/2014	Ongoing probate court activity.
5045	11/5/2014	Ongoing investigation with Attorney General's Office that has already led to multiple arraignments.
5209	12/19/2014	Ongoing probate court activity.
5329	1/18/2015	Ongoing probate court activity.
5395	2/1/2015	Ongoing joint investigation with the Office of Professional Regulation. Linked to APS Investigation 5396.
5396	2/1/2015	Ongoing joint investigation with the Office of Professional Regulation. Linked to APS Investigation 5395.
5447	2/11/2015	Ongoing law enforcement investigation. Linked to APS Investigations 5674 and 5824.
5639	3/30/2015	Ongoing law enforcement investigation.
5644	3/31/2015	Investigation involving the death of the alleged victim and coordination with other agencies. Related to APS Investigation 6029.
5674	4/7/2015	Ongoing law enforcement investigation. Linked to APS Investigations 5447 and 5824.
5773	5/5/2015	Investigation involved outside investigative agency. Investigation concluded but still being documented. Closure expected by 1/22/2016. Linked to APS Investigation 5774.

Case Number	Assignment Date	Reason
5774	5/5/2015	Investigation involved outside investigative agency. Investigation concluded but still being documented. Closure expected by 1/22/2016. Linked to APS Investigation 5773.
5824	5/18/2015	Ongoing law enforcement investigation. Linked to APS Investigations 5447 and 5674.
5857	5/26/2015	Ongoing investigation with other enforcement agencies.
5922	6/10/2015	Ongoing law enforcement investigation.
5925	6/10/2015	Investigation delayed due to unavailability of alleged victim. Linked to APS Investigation 5926.
5926	6/10/2015	Investigation delayed due to unavailability of alleged victim. Linked to APS Investigation 5925.
5940	6/12/2015	Investigation ongoing. Investigation dependent on external investigation that concluded on 11/30/2015. Linked to APS Investigation 5941.
5941	6/12/2015	Investigation ongoing. Investigation dependent on external investigation that concluded on 11/30/2015. Linked to APS Investigation 5940.
5965	6/19/2015	Ongoing law enforcement investigation.
6007	6/25/2015	Ongoing criminal prosecution.
6015	6/26/2015	Ongoing Attorney General's Office investigation. Linked to APS Investigation 6016.
6016	6/26/2015	Ongoing Attorney General's Office investigation. Linked to APS Investigation 6015.
6029	6/29/2015	Investigation involving the death of the alleged victim and coordination with other agencies. Related to APS Investigation 5644.